

Proposed Amendments  
Official Code of Cobb County  
Chapters 6, 34, 50, 54, 70, 78, 82, 86, 106, 110, 122 and 134  
Public Hearing Dates  
January 26, 2010 – 7:00 pm  
February 9, 2010 (Transmit Planning Commission Recommendation) – 9:00 am  
February 23, 2010 – 7:00 pm

Cobb County Community Development  
191 Lawrence Street  
Marietta, GA 30060  
[www.cobbcounty.org](http://www.cobbcounty.org)

## Sec. 6-1. Definitions.

*Bottle house* means any place of business open to the public or any private club which allows guests, patrons or members to bring in and to consume the guest's, patron's or member's alcoholic beverages on the premises. This definition includes restaurants with alcohol pouring licenses that allow alcohol to be brought on the premises and may charge a corkage fee. Restaurants that are bottle houses shall pay a license fee as provided in schedule F on file with the County Clerk and the Business License Division.

## Sec. 6-131. License prohibited for package sales in connection with sales of alcoholic beverages by the drink.

Except in a farm winery, no retail license for the sale of alcoholic beverages by the package shall be allowed where such sale would take place in, or in connection with, any restaurant, cafe or eating place, or in the same room where a bar is maintained for the dispensing and sales of alcoholic beverages. A separate license shall be required for package and pouring with separate entrances for adjacent establishments but an adjoining door may exist between establishments and may be used for customers but must be able to be locked when sales of alcohol is not allowed by the package on Sunday. Businesses which are licensed only for wine package sales may allow sampling of wines provided there is no charge for admittance or for the wine sample and the serving size of the sample does not exceed two ounces.

(Ord. of 8-14-73, art. II, § 23; Ord. of 10-24-89, § I; Ord. of 5-11-93; Ord. of 10-11-94, § 3; Code 1977, § 3-4-16; Ord. of 2-26-08)

Sec. 6-194. Allowing underage persons on licensed premises.

(a) No person who holds a license to sell alcoholic beverages in a lounge, nightclub or package store, nor his agents and employees, shall allow any person under 21 years of age to be in the premises of the licensee unless 1) such underage person is accompanied by a parent or legal guardian; or unless 2) such underage person is 18 years or older, employed by the licensee and not off duty. ~~No person under 21 years of age shall be employed in a lounge, package store or night club. Notwithstanding any person who is under the age of 21 working in a lounge, package store or night club at the time of the adoption of this section may continue to work at said establishment.~~

~~(b) No person who holds a license to sell alcoholic beverages in a nightclub, nor his agents and employees, shall allow any person under the age of 21 years to be in the premises of the licensee unless such underage person is accompanied by his parent or legal guardian.~~

(Ord. of 10-24-89, § I; Ord. of 5-11-93; Code 1977, § 3-4-66; Ord. of 7-27-04)

Secs. 6-195--6-205. Reserved.

Sec. 6-207. Work permits.

(a) For whom required. ....

(h) Grounds for suspension, revocation, probation. No permit which has been issued or which may hereafter be issued under this section shall be suspended, revoked or placed on probation except for due cause as defined in this subsection, and after a hearing and upon written notice to the holder of such permit of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. A minimum of three days' notice shall be provided to the applicant or permit holder. "Due cause" for the suspension or revocation of the permit shall consist of the violating of any laws or ordinances regulating the sale of alcoholic beverages or for the violation of any state, federal or local ordinances set out in section 6-206; or for the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before the license review board and shall be conducted in the manner provided in section 6-147(b). After the hearing if the license review board determines due cause exists, the license review board may suspend, revoke or place on probation for a maximum of 12 months, with or without conditions, the permit. In addition, after the hearing, the license review board may grant a work permit to an employee whose application was denied upon any conditions deemed appropriate by the board. The board of commissioners shall at its next meeting review a summary of the hearing before the license review board wherein the work permit was considered for issuance, suspension or revocation (the summary shall be prepared by the business license division manager) and the board of commissioners after such review may place the matter down for a hearing. Should the board of commissioners place the matter down for hearing the board of commissioners, after such hearing, may issue the work permit, suspend or revoke the work permit or place the employee on probation. The employee whose work permit was not issued or whose work permit was probated, suspended or revoked may appeal to the board of commissioners pursuant to section 6-147 hereof.

(i) Notwithstanding any of the provisions in this section, any permits issued through administrative error or an error in the completion of a background investigation may be terminated by the director of public safety or his/her designee.

(Ord. of 8-14-73, art. IV, § 34; Ord. of 3-24-87; Res. of 9-22-87; Ord. of 10-24-89, § I; Ord. of 9-25-90; Ord. of 5-11-93; Ord. of 3-25-97 (eff. 4-1-97); Code 1977, § 3-4-61; Ord. of 8-10-99; Ord. of 7-10-01 (eff. 1-1-02); Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-26-08)

## Sec. 6-238. Activities prohibited.

- (a) Whereas, Article III, Section VI, Paragraph VII of the Constitution of the State of Georgia, delegates authority to counties and municipalities "for the purpose of regulating, restricting, or prohibiting the exhibition of nudity, partial nudity, or depictions of nudity in connection with the sale or consumption of alcoholic beverages;" and  
Whereas, the United States Eleventh Circuit Court of Appeals has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments; and  
Whereas, the Supreme Court of Georgia has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments;  
Whereas, among the undesirable community conditions identified with live nude entertainment and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order; increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight; and *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *5634 East Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4279670 (11<sup>th</sup> Cir. Sept. 18, 2008) (*per curiam*); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981).  
The state supreme court, in *Chambers d/b/a Neon Cowboy v. Peach County, Georgia*, 266 Ga. 318 (1996), held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses, and further held that a governing authority seeking to regulate adult entertainment establishments must have evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control. The state supreme court further held in the same opinion that in passing its regulations, a local government may rely on the experience of other counties and municipalities to demonstrate such a relationship.  
The United States Supreme Court, in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), held that a local government may rely on the experience of other cities in enacting legislation to regulate adult entertainment businesses.  
Whereas, federal and state appellate courts, have previously held that before enacting an ordinance to combat undesirable secondary effects of adult entertainment, a legislative body is required to consider specific evidence of the undesirable secondary effects of adult entertainment

establishments that it reasonably believes relevant to the interests it seeks to address by passing the ordinance; and

Based on the experiences of other municipalities and counties including, but not limited to, Adams County, Colorado; New York City, New York; Indianapolis, Indiana; Dallas, Texas; Sandy Springs, Georgia; Oklahoma City, Oklahoma; City of St. Mary's, Georgia; Hamilton County, Tennessee; Amarillo, Texas; Rome, Georgia; Gwinnett County, Georgia; Austin, Texas; Phoenix, Arizona; Manatee County, Florida; City of Garden Grove, California; Forth Worth, Texas; Houston, Texas; St. Cloud, Minnesota; Whittier, California; and the City of Los Angeles, California which are found to be relevant to the problems faced by the county, the Board of Commissioners notes the documented negative economic, physical, and social impact adult entertainment businesses have on the community.

Whereas, based upon the experience of other urban counties and municipalities, which experiences the board of commissioners finds are relevant to the problems faced by the county, and which do not vary greatly among generally comparable communities within this country, the board of commissioners finds that public nudity, under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in adult entertainment establishments offering adult entertainment, begets criminal behavior and tends to create undesirable community conditions; and

Whereas, the board of commissioners of the county finds and declares that nudity and sexual conduct and depiction thereof, coupled with alcohol in public places, encourages undesirable behavior and is not in the interest of public health, safety, and welfare; and

Whereas, the board of commissioners has chosen to avoid the disturbances associated with mixing alcohol and nude dancing by means of a reasonable restriction upon establishments which sell spirituous or vinous liquors or malt or brewed beverages; and

Whereas, the ordinance furthers important governmental interests of reducing crime and protecting property values which are unrelated to the suppression of speech; and

Whereas, it is the intent of the board of commissioners to enact an ordinance, narrowly tailored, sufficient to combat the undesirable secondary effects of the serving and consumption of alcoholic beverages at adult entertainment facilities; and

Whereas, it is not the intent of the board of commissioners, in enacting this ordinance to deny to any person the right to speech or expression protected by the United States or Georgia Constitutions, nor it is the intent to deny or restrict the rights of any adult to obtain or view any sexually oriented performance or materials protected by the United States or Georgia Constitutions, but to adopt a content neutral ordinance

to combat the undesirable secondary effects of adult entertainment where alcoholic beverages are served or consumed; and

Whereas, this section is enacted to further the health, safety, and welfare of the citizens of the county.

- (b) No person shall suffer or permit any person to engage in live conduct exposing to public view the person's genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or any portion of the female breast below the top of the areola on the licensed premises. No erotic entertainment/dance establishment licensee shall serve, sell, distribute or suffer consumption or possession of any alcoholic beverages or controlled substances upon the premises of the licensee
- (c) No licensee shall allow any person to engage in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act prohibited by law on the licensed premises.
- (d) Exception. Nothing contained in subparagraph (b) of this section shall apply to the premises of any theatre, concert hall, art center, museum, or similar establishment primarily devoted to the arts or theatrical performances, where the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value. —The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

~~(1) *Erotic entertainment/dance establishment* shall be defined as a nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers or entertainers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.~~

~~(2) *Specified sexual activities* shall include any of the following:~~

~~a. Actual or simulated Sexual intercourse, oral copulation, anal intercourse, oral/anal copulation, bestiality, masturbation or, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relations, or excretory functions in the context of sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoöerasty;~~

~~b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;~~

~~c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;~~

~~d. Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;~~

~~e. d. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;~~

~~f. e. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or~~

~~g. f. Human excretion, urination, menstruation, vaginal or anal irrigation.~~

~~(3) *Specified anatomical areas* shall include any of the following:~~

~~a. Less than completely and opaquely covered human genitals or pubic region, buttock, or female breasts below a point immediately above the top of the areola; or~~

~~b. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.~~

~~(c) The purpose of this section is to regulate certain types of businesses, including, but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed.~~



**Sec. 34-2. Emergency management and response powers.**

(a) Declaration of emergency.

(1) Grant of authority. In the event of an actual or threatened occurrence of a disaster or emergency, which may result in the large-scale loss of life, injury, property damage or destruction or in the major disruption of routine community affairs, business or governmental operations in the county and which is of sufficient severity and magnitude to warrant extraordinary assistance by federal, state and local departments and agencies to supplement the efforts of available public and private resources, the chairman of the board of commissioners may declare an emergency for the unincorporated area of the county and including municipalities upon execution of an intergovernmental agreement(s).

(2) Request for state assistance. Consistent with a declaration of emergency, the chairman may request the governor to provide assistance, provided that the disaster or emergency is beyond the capacity of the county to meet adequately and state assistance is necessary to supplement local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

(3) Continuance. The declaration of emergency shall continue until the chairman finds that emergency conditions no longer exist, at which time, the chairman shall execute and file with the clerk of the board of commissioners a document marking the end of the state of emergency. No state of emergency shall continue for longer than 30 days, unless renewed by the chairman. The board of commissioners may, by resolution, end a state of emergency at any time.

(4) Effect of declaration of emergency.

a. Activation of emergency operations plan. A declaration of emergency shall automatically activate the county emergency operations plan and shall be authority for the deployment of personnel and use of any forces to which the plan applies and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled or arranged to be made available pursuant to the Georgia Emergency Management Act or any other laws applicable to emergencies or disasters.

1. The CEMA director shall have the legal authority to exercise the powers and discharge the duties conferred upon the emergency management agency, including the implementation of the emergency operations plan, coordination of the emergency responses of public and private agencies and organizations, coordination of recovery efforts with state and federal officials, and inspection of emergency or disaster sites.

2. In responding and conducting necessary and appropriate investigations, the director or his/her designee is authorized to enter at a reasonable time upon any property, public or private, for the purpose of investigating and inspecting sites involved with emergency management functions.

3. No person shall refuse entry or access to any authorized representative or agent of the county who requests entry for purposes of inspection, and who

presents appropriate credentials. Nor shall any person obstruct, hamper or interfere with any such representative while that individual is in the process of carrying out his or her official duties.

b. Emergency powers. Following a declaration of emergency and during the continuance of such state of emergency, the chairman is authorized to implement local emergency measures to protect life and property or to bring the emergency situation under control. In exercising this authority, the chairman may cause to become effective any of the following sections of this chapter as appropriate: Sections 34-5, 34-6, and 34-7. If any of these sections is included in a declaration of emergency, the same shall be filed in the office of the clerk of the board of commissioners and shall be in effect until the declaration of emergency has terminated.

c. Authority to waive procedures and fees. Pursuant to a declaration of emergency, the board of commissioners is authorized to cause to be effective any of the subsections of section 34-4 of this chapter as appropriate. The implementation of such subsections shall be filed in the office of the clerk of the board of commissioners.

d. Additional emergency powers. The chairman of the board of commissioners shall have and may exercise for such period as the declared emergency exists or continues, the following additional emergency powers:

1. To direct and compel the evacuation of all or part of the population from any stricken or threatened area, for the preservation of life or other disaster mitigation, response or recovery;
2. To prescribe routes, modes of transportation and destinations in connection with evacuation;
3. To suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and flammable liquids and substances;
4. To make provision for the availability and use of temporary emergency housing, emergency shelters and/or emergency medical shelters.
5. To transfer the direction, personnel or functions of any county departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
6. To utilize all available resources of the county and subordinate agencies over which the county has budgetary control as reasonably necessary to cope with the emergency or disaster;
7. To commandeer or utilize public or private property when necessary to cope with the emergency or disaster or when there is compelling necessity for the protection of lives, health and welfare; and/or the property of citizens;
8. To suspend any law, code provision or regulation prescribing the procedures for conduct of county business, or the orders, rules or regulations of any county agency, if strict compliance with any ordinance, resolution, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency or disaster, provided that such suspension shall provide for the minimum deviation from the requirements under the

circumstances and further provided that, when practicable, specialists shall be assigned to avoid adverse effects resulting from such suspension;

9. To provide welfare benefits to citizens upon execution of an intergovernmental agreement for grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in cases where the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching state or federal funds are available for such purposes;

10. To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(b) Form of declaration. Upon the declaration of emergency, an official "Declaration of Emergency," in substantially the same form set forth below, shall be signed and filed in the office of the clerk of the county and shall be communicated to the citizens of the affected area using the most effective and efficient means available. The declaration shall state the nature of the emergency or disaster, the conditions that require the declaration and any sections of this chapter which shall be in effect.

#### DECLARATION OF EMERGENCY

WHEREAS, Cobb County, Georgia has experienced an event of critical significance as a result of [DESCRIPTION OF EVENT] on [DATE]; and WHEREAS, in the judgment of the Chairman of the Cobb County Board of Commissioners, with advice from the Cobb Emergency Management Agency (CEMA), there exist emergency circumstances located in [DESCRIBE GEOGRAPHIC LOCATION] requiring extraordinary and immediate corrective actions for the protection of the health, safety and welfare of the citizens of Cobb County, including individuals with household pets and service animals; and WHEREAS, to prevent or minimize injury to people and damage to property resulting from this event;

NOW, THEREFORE, pursuant to the authority vested in me by local and state law;

IT IS HEREBY DECLARED that a local state of emergency exists and shall continue until the conditions requiring this declaration are abated.

WHEREFORE, IT IS ORDERED:

- (1) That the Cobb County Emergency Management Agency activate the Emergency Operations Plan;
- (2) That the following sections of the Official Code of Cobb County, Georgia be implemented: [If deemed appropriate, choose from the following: Section 34-5, Overcharging; Section 34-6, Registration of Building and Repair Services; Section 34-7, Closed or Restricted Areas and Curfews]; and

(3) That the following measures also be implemented: [If deemed appropriate, select items from Section 34-2(a)(4)c, d or such other measures as appropriate.]

ENTERED at [TIME] on [DATE].

[Signed]

Chairman, Cobb County Board of Commissioners

(c) Emergency powers of municipalities.

(1) ~~Municipalities. Under the Georgia Emergency Management Act, municipalities within the county are authorized to exercise the same emergency governmental powers within their municipal boundaries as are authorized for the county government.~~

(2) Contracts with municipalities. In addition to the normal agreements embodied in the county's emergency operations plan for mutual emergency assistance, the board of commissioners may contract with any municipality for the administration of an emergency response program.

(Ord. of 2-27-07)

#### **Sec. 34-5. Overcharging prohibited.**

To preserve, protect or sustain the life, health or safety of persons or property within a designated area upon the declaration of emergency or disaster, it shall be unlawful, during the duration of the emergency or subsequent recovery period, for any person, firm or corporation located or doing business in the unincorporated portions of the county to overcharge for any goods, materials, foods, equipment, supplies, services, labor, motel rooms, temporary lodging or houses sold or rented within the county.

(a) Definitions. The following words, terms and phrases, when used in this section shall have the meanings ascribed, except where the context clearly indicates a different meaning:

(1) "Overcharging" consistent with state law, means charging prices for goods, materials, foods, equipment, supplies, services, labor, motel rooms, temporary lodging or houses, which exceed the customary charges by at least 25 percent or, in applicable cases, which exceed by at least 25 percent the suppliers' or providers' costs for such goods, materials, foods, equipment, supplies, services, labor, motel rooms, temporary lodging or houses. The existence of overcharging shall be presumed from a 25 percent or greater increase in the price at which the merchandise or rate, fee or cost/rental of housing was offered in the usual course of business immediately prior to the onset of the emergency or disaster, but shall not include increases in cost to the supplier directly attributable to the higher cost of material, supplies and labor costs resulting from the emergency.

(2) "Subsequent recovery period" means that period during which the emergency or disaster continues to cause disruptions in the area designated in the declaration of emergency, but shall not exceed six months after the

declaration has been terminated, unless extended by action of the board of commissioners.

(b) Effective date. This section shall become effective only upon the signing of a declaration of emergency, stating this section is in effect.

(Ord. of 2-27-07)

Sec. 34-6. Registration of building and repair services.

(a) Before building, constructing, repairing, renovating or making improvements to any real property, including dwellings, homes, buildings, structures or fixtures within an area in the unincorporated area of the county designated in a declared emergency or disaster, any person, firm, partnership, corporation or other entity must register with the county and secure a building permit that is posted at the work site. Each day any such entity does business in the unincorporated areas of the county without complying with this ordinance constitutes a separate violation~~offense~~.

(b) Upon the declaration of an emergency or disaster, any affected person, firm, partnership, corporation or other entity may apply for a "special permit" for building, constructing, repairing, renovating or making improvements associated with repairs resulting from the disaster.

(c) When registering, any person, partnership, corporation or other entity making application must submit proof of a current Georgia State Contractor's License., ~~under oath, complete an application, providing the following information:~~

~~(1) Name of applicant;~~

~~(2) Permanent address and phone number of applicant;~~

~~(3) Applicant's Social Security number or federal Employer Identification number;~~

~~(4) If applicant is a corporation, the state and date of incorporation;~~

~~(5) Tag registration information for each vehicle to be used in the business;~~

~~(6) List of cities where the applicant has conducted business within the past 12 months;~~

~~(7) Georgia sales tax number or authorization;~~

~~(8) Georgia business license number, if required.~~

(d) Effective date. This section shall become effective only upon the signing of a declaration of emergency, stating this section is in effect.

(Ord. of 2-27-07; Ord. of 7-14-09)

### ARTICLE III. LAND DISTURBING ACTIVITIES\*

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\*Cross references: Buildings and building regulations, ch. 18.

State law references: Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.; local land disturbing activity ordinances, O.C.G.A. § 12-7-4.

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#### Sec. 50-71. Definitions.

The following words, terms and phrases, when used in this article and other articles of this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best management practices (BMPs) means a collection and wide range of structural practices and vegetative measures, in addition to stormwater management regulations, procedures, engineering designs, activities, prohibitions or practices, that when properly designed, installed and maintained, have been demonstrated to effectively control the quantity, quality and erosion and sedimentation associated with stormwater consistent with the requirements of the Manual for Erosion and Sediment Control in Georgia, specified in O.C.G.A. § 12-7-6, subsection (b) as amended, and the Georgia Stormwater Management Manual.

Board means the Board of the Georgia State Department of Natural Resources.

Buffer means an area along the course of any streams as defined on the current county stream buffer map to be maintained in an undisturbed and natural condition to facilitate the protection of water quality and aquatic habitat and may include a restrictive covenant in favor of the county for conservation uses.

Certified Personnel means a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CIP period means a capital improvement program year as determined by the board of commissioners.

Commission means the state soil and water conservation commission.

CPESC means a Certified Professional in Erosion and Sediment Control with current certification by Certified Profession in Erosion and Sediment Control, Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

Conservation Easement means an agreement between a land owner and the county or other government agency or land trust that permanently protects open

space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.

Department means the Cobb County Water System, or CCWS.

Design Professional means a professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc.

Detention means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

Detention facility means a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water(or, designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.)

Development or land development means, to the extent permitted by law, any of the following actions undertaken by a public or private individual or entity: The division of a lot, tract or parcel of land into two or more parcels or other divisions by plat or deed, or the combination or recombination of two or more lots, tracts or parcels of land into a lesser number of lots, plots, sites, tracts, parcels or other combinations by plat or deed. The term "development" shall also mean any land change, including, without limitation, clearing, grubbing, stripping, dredging, grading, excavating, transporting and filling of land.

Development agreement means a private, voluntary agreement between the county and the applicant as authorized by the Georgia Development Impact Fee Act (O.C.G.A. § 36-71-1 et seq.).

DNR means the state department of natural resources.

Director means the director of the county community development agency.

District means the county soil and water conservation district.

Division means the environmental protection division of the state department of natural resources.

Drainage easement means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement

Drainage structure means a device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point,

or a structure for the retention or detention of stormwater runoff for stormwater management, drainage control or flood control purposes.

Easement means a grant or reservation by the owner of land for the use of such land by others for a specific purpose, and which must be included in the conveyance of land affected by such easement.

Ephemeral Stream means a stream that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

~~Erosion and sedimentation control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.~~

Erosion, Sedimentation and Pollution Control Plan means a plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, at a minimum, protections at least as stringent as the State General Permit, best management practices, and requirements as stated in this chapter.

Extended detention means the detention of stormwater runoff for an extended period, typically 24 hours or greater.

Extreme flood protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

Fill means a portion of land surface to which soil or other solid material has been added; the depth above the original grade.

Final Stabilization means all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.



Finished grade means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Flooding means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

Georgia Stormwater Management Manual (GSMM) or manual as amended from time to time, means the minimum guidelines of design, performance, and review criteria for stormwater management practices, as approved by the board of commissioners.

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping, or any combination thereof, and shall include the land in its cut or filled condition.

Greenspace or "open space" means permanently protected areas of the site that are preserved in a natural state, except for necessary utility crossings.

Ground elevation means the original elevation of the ground surface prior to cutting or filling.

Hotspot means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Hydrologic soil group (HSG) means a natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Impervious cover or impervious area means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil.

Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

Industrial stormwater permit means a national pollutant discharge elimination system (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the passage or movement of water into the soil subsurface.

Inspection and maintenance agreement means a written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

Issuing authority means the county community development agency or its assigned or designated representative, which shall be responsible for administering this article and has been certified by the director of the environmental protection division of the department of natural resources as the

issuing authority, pursuant to ~~the Erosion and Sedimentation Act of 1975, as amended~~ subsection (a) O.C.G.A. 12-7-8.

Lake means a body of water one acre or more in surface area, created either by a manmade or natural dam or other means of water impoundment.

Land disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, but not including agricultural practices as described herein.

Larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local issuing authority means the governing authority of any county or municipality, which is certified pursuant to subsection (a) of O.C.G.A. § 12-7-8.

Local planning commission means the Cobb County planning commission.

Maintenance means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article and to prevent structural failure of such facilities.

Manager is the director of the county water system or his/her designee.

Metropolitan North Georgia Water Planning District or MNGWPD means the organization created by the Georgia General Assembly in 2001 to develop comprehensive regional management plans for water, wastewater and watershed protection and to oversee the implementation of such plans.

Metropolitan River Protection Act (MRPA) means a state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Natural ground surface means the ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU) means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

New development means a land development activity on a previously undeveloped site.

NOI means a Notice of Intent form provided by EPD for coverage under the State General Permit.

Nonpoint source pollution means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonstructural stormwater management practice or nonstructural practice means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

NOT means a Notice of Termination form provided by EPD to terminate coverage under the State General Permit.

Off-site stormwater management facility means any facility outside the project boundary that is or will be used for transporting and management of stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes and headwater pools. Easements for the purpose of transporting and management of stormwater runoff shall be obtained for any off-site facility with prior approval obtained from the manager of the county water system.

On-site stormwater management means the design and construction of a facility necessary to control stormwater runoff within and for a single development.

On-site stormwater management facility means any facility within the project boundary used for the purpose of transporting or managing stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes and headwater pools.

Operator means the party or parties that have:

- (1) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- (2) Day-to-day operational control of those activities that are necessary to ensure compliance with a stormwater pollution prevention plan/ erosion and sedimentation control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan/ erosion and sedimentation control plan or to comply with other permit conditions.

Outfall means the location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Overbank flood protection means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through 25-year frequency storm events.

Permanently protected means be protected from development in perpetuity (per O.C.G.A. § 44-5-60(c)) by the mandatory covenants or conservation easements in favor of the county for conservation uses.

Permit means the permit issued by the community development agency to the applicant which is required for undertaking any land development activity.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision for the state, any interstate body or any other legal entity.

Phase or Phased means sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Pond means a body of standing water less than one acre in surface area, created either by a natural dam, or other means of water impoundment.

Post-development refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

Pre-development refers to the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

Preexisting stormwater management facility means any stormwater facility which may or may not have been physically installed but was required by this article or any prior ordinance.

Preliminary plat means the preliminary plat of subdivision submitted pursuant to the county's current subdivision regulations and such other development standards and as may be amended from time to time.

Project means the entire proposed development project regardless of the size of the area of land to be disturbed.

Properly Designed means designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation

Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.

Qualified personnel means any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19.

Roadway drainage structure means a bridge, culvert or flume composed of concrete, steel, plastic or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Record survey means a final field survey which locates the visible surface features of a constructed stormwater facility on the ground but without locating nonvisible or subsurface features such as the actual route and elevation of buried pipe. Such nonvisible or subsurface features which are known to exist shall be located on the record survey in their reasonable respective locations.

Redevelopment means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Regional stormwater management means the design and construction of a facility necessary to control stormwater runoff within or without a development and for one or more developments.

Retention structure means a permanent structure that provides for the temporary storage of runoff and is designed to maintain a permanent pool of water.

Sediment means solid material, both organic and inorganic, that is in suspension, is being transported or has been moved from its site of origin by air, water, ice or gravity as a product of erosion.

Sedimentation means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Slope means a degree of vertical deviation of surface from the horizontal, usually expressed in percent or degree.

Soil and water conservation district approved plan means an erosion and sedimentation control plan approved in writing by the county soil and water conservation district.

Stabilization means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent vegetative structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State general permit means the national pollution discharge elimination system general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the

state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 USC Section 1251, et seq., and subsection (f) of O.C.G.A. § 12-5-30.

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface or subsurface water, natural and artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Stormwater better site design means nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater concept plan means the overall proposal for a storm drainage system, including stormwater management structures, and supporting documentation as specified in the current county development standards and specifications for each proposed private or public development to the extent permitted by law.

Stormwater design/management plan means the set of drawings and other documents that comprise all of the information and specifications for the systems, structures, concepts and techniques that will be used to control stormwater as required by the Georgia Stormwater Management Manual and the Cobb County Development Standards and Specifications .

Stormwater management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to prevent accelerated channel erosion, increased flood damage and/or degradation of water quality, and in a manner to enhance and ensure the public health, safety and general welfare.

Stormwater management assessment districts means any districts established by the board of commissioners where there are special assessments of property owners for the purpose of management and maintenance of stormwater.

Stormwater management facilities means those structures and facilities that are designed and constructed for the conveyance, collection, storage, transport, storage, treatment and disposal of stormwater runoff into and through the stormwater management system.

Stormwater management system means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

Stormwater retrofit means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stream means any stream, beginning at:

- (1) The location of a spring, seep, or groundwater outflow that sustains streamflow: or
- (2) A point in the stream channel with a drainage area of 25 acres or more; or
- (3) Where evidence indicated the presence of a stream in a drainage area of other than 25 acres, the county may require field studies to verify the existence or non existence of a stream.

Structural stormwater control means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

Structural erosion and sedimentation control practices means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss, including but not limited to riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Subdivider means a person providing or developing land so as to constitute subdivision.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes all division of land involving a new street or a change in existing streets, and includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. Provided, however, that the following are not included within this definition:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the county.
- (2) Any subdivision of land for agricultural purposes, provided that no lots thereby produced contain less than ten acres each and have average widths of 400 feet or more. Also, where no new streets, roads or other rights-of-way are involved and where no residential, commercial or industrial development will follow.
- (3) A division or sale of land by judicial decree.
- (4) The sale or exchange of a parcel of land between owners of adjoining properties, provided that additional lots are not thereby created.
- (5) In those instances where the board of appeals grants a variance for a subdivision of property lacking the minimum public road frontage and an easement is necessary for ingress and egress to the property, there shall be a maximum of three lots permitted, a minimum of 80,000 square feet per lot, a minimum of 25 feet width easement, and the easement and the subdivided lots

shall be platted and required to be recorded as restrictive covenants running with the land in the clerk's office, county superior court. The board of appeals shall not be authorized to grant a variance to this subsection.

Trout streams means all streams or portions of streams within the watershed as designated by the game and fish division of the state department of natural resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but which are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Undeveloped condition refers to the characteristics of the land surface prior to any development.

Vegetative erosion and sedimentation control measures means measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing longterm vegetative cover;
- (2) Temporary seeding, producing shortterm vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Violation means any breach of the provisions of this article, including failure to obtain a land disturbance permit when required, failure to follow best management practices and violating NTU levels when BMPs were not followed.

Watercourse means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, as determined by a qualified wetlands consultant or the U.S. Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. of 3-27-90; Code 1977, § 3-6-108; Ord. of 11-14-95; Ord. of 1-23-01; Ord. of 7-10-01; Ord. of 4-13-04)

Cross references: Definitions generally, § 1-2.

Sec. 50-72. Purpose and intent.

The purpose of this article is to control erosion and sedimentation by requiring proper provisions for stormwater runoff and the protection of soil surfaces during and after any land disturbing activity so as to promote the safety, public health and general welfare of the people of the county.

(Ord. of 3-27-90; Code 1977, § 3-6-107; Ord. of 11-14-95)



Sec. 50-73. Administration and enforcement.

The administration and enforcement of this article shall be by the county community development agency in accordance with the Erosion and Sedimentation Control Act of 1975, O.C.G.A. § 12-7-1 et seq. (Ord. of 3-27-90; Code 1977, § 3-6-107; Ord. of 11-14-95; Ord. of 4-13-04)

Sec. 50-74. Exemptions.

This article shall apply to any land disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as same is defined in O.C.G.A. § 12-4-72.
- (2) Granite and other quarrying in areas that do not generate runoff (i.e. the quarry pit area).
- (3) Such minor land disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences and other related activities, which result in minor soil erosion.
- (4) The construction of single-family residences that involve the creation of less than 5,000 square feet of impervious area, when such are not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this subsection; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 50-75 and this paragraph. For single-family residence construction covered by the provisions of this subsection, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to article 2 of chapter 5 of the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.). In any such buffer zone, no land disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director of EPD may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 50-75 and the buffer zones provided by this section shall be enforced by the issuing authority.
- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl or animals; the production of aquacultural, horticultural, dairy, livestock, poultry, eggs and apiarian products.

(6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of section 50-75, no other land disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices.

(7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.

(8) Any project involving the creation of less than 5,000 square feet of impervious ground cover; provided, however, that this exemption shall not apply to any land disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this subsection, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them yearround; provided, however, that any person responsible for a project which involves, less than one acre, which involves land disturbing activity and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained in this subsection shall prevent the issuing authority from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section.

(9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the state highway authority or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of department of transportation or state tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; and except where the department of transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violation by permit holders.

(10) Any land disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission any utility under the regulatory jurisdiction of the federal energy regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or

instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the federal energy regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violation by permit holders;

(11) Any public water system reservoir.

(Ord. of 3-27-90; Code 1977, § 3-6-109; Ord. of 11-14-95; Ord. of 1-23-01; Ord. of 7-8-03; Ord. of 4-13-04)

State law references: Exemptions, O.C.G.A. § 12-7-17.

Sec. 50-75. Minimum requirements for erosion and sedimentation control using best management practices.

(a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land disturbing activities if requirements of this ordinance and the NPDES General Permit are not met. Therefore, plans for those land disturbing activities which are not excluded by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land disturbing activity and the NPDES General Permit.

With respect to development on properties with stream buffers (refer to subsection 50-75(b)15. and 16., below) any permit applications shall be required to include the following information:

(1) A site plan showing:

- a. The location of all streams on the property;
- b. Limits of required stream buffers and setbacks on the property;
- c. Buffer zone topography with contour lines at no greater than five-foot contour intervals;
- d. Delineation of forested and open areas in the buffer zone; and,
- e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;

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- (2) A description of all proposed land development within the buffer and setback; and
- (3) Any other documentation that the Cobb County Community Development Agency may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.
- (b) Minimum requirements/BMPs.
- (1) Best management practices as set forth in this article shall be required for all land disturbing activities. Proper design, installation and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with subsection (b)(2) of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act. As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).
- (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed and maintained shall constitute a separate violation of any land disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
- (3) Failure to properly design, install or maintain best management practices shall constitute a violation of any land disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such failure occurs.
- (4) The director of EPD may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur to verify that the minimum requirements in (b)(2) are being met.
- (c) General design principles. The application of this section gives due consideration to the differences regarding requirements for development of commercial properties as opposed to those requirements for residential properties. The permittee and exempt persons who are required to comply with this article shall be required to provide protections at least as stringent as the

state general permit and follow as a minimum best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resulting sedimentation which are consistent with and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion.
- (2) Cut-fill operations must be kept to a minimum.
- (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential.
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum. Development/construction shall be so scheduled and performed to allow for the required installation of temporary silt fence, construction of sediment basins, and other type best management practices prior to grading operations. Grading operations and best management practices must follow immediately thereafter.
- (6) Disturbed soil shall be stabilized as quickly as practicable, according to criteria set forth in the county development standards and specifications.
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable, according to criteria set forth in the county development standards and specifications.
- (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- (11) Cuts and fills may not adversely impact adjoining property.
- (12) Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners and in accordance with chapter 58 of this code.
- (13) Grading equipment must cross flowing streams by means of bridges or culverts, except when such methods are not feasible.
- (14) Land disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this article.

(15) Land disturbing activities in unincorporated Cobb County shall not be conducted within:

a. Twenty-five feet of the banks of any state waters not defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented, or along any ephemeral stream.

b. Fifty feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is less than or equal to five square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 50-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 50-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94. An additional impervious setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffers, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

c. Seventy-five feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is equal to five square miles and less than or equal to ten square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 75-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 75-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94.

d. One hundred feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is greater than ten square miles; except where the director determines to allow a variance that is at least as

protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 100-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 100-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94.

e. Two hundred feet of the banks of Nickajack Creek, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action, from Church Road downstream to its confluence with Mill Creek No. 2 (Cross-Section AA according to effective Cobb County Flood Insurance Study dated August 18, 1992) and from Buckner Road downstream to its confluence with the Chattahoochee River except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 200-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 200-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94.

f. Per DNR Rule 391-3-16.01:

1. For perennial streams tributary to Lake Allatoona and within a 7-mile radius of the Lake Allatoona reservoir boundary:

- A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
- No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
- Septic tanks and septic tank drain fields are prohibited in the setback area of 2, above.

2. For perennial streams tributary to the Chattahoochee River (including the Chattahoochee River upstream of the water supply intake at Johnson Ferry Road, or tributaries which enter the Chattahoochee River upstream of the water supply intake at Johnson Ferry Road) and which are within a 7-mile radius of the water supply intake at Johnson Ferry Road:

- A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
- No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
- Septic tanks and septic tank drain fields are prohibited in the setback area of 2, above.

g. Once established, a permanent natural undisturbed buffer, shall be recorded on all plats and revisions and/or property deeds which encumbers this property as undisturbed buffer area to all future property owners. Said buffer will also contain a restrictive covenant in favor of the county for conservation uses.

The buffer shall be subject to exceptions set forth below and the county retains the right on a per case basis to grant variances.

h. Exceptions to these buffers are as follows:

1. Where a sewerline easement exists or must be constructed to serve the general public (this exception is not applicable to the state-mandated 25-foot buffer).
2. Where the 100-year floodplain constricts within the buffer and "buffer averaging" is permitted such that the net buffer area is not reduced or the average buffer width conforms to the widths as outlined above (this exception is not applicable to the state-mandated 25-foot buffer).
3. Where a roadway crossing occurs and the buffer must be constricted to allow construction of a bridge or a culvert. The state-mandated 25-foot buffer will apply in these areas for a distance of 50 feet upstream and downstream of the face of the bridge or culvert headwall.
4. Where the director of the county community development agency, or his assign(s) determine to allow a variance to the requirements greater than the state-mandated 25-foot buffer that is at least protective of natural resources and the environment, or where otherwise allowed pursuant to O.C.G.A. § 12-2-8. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the required buffer that is greater than the state-mandated 25-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the required buffer that is greater than the state-mandated 25-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections 134-34 and 134-94.
5. Where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specification and are implemented; provided that buffers established pursuant to part 6 of article 5 of chapter 5 of the Metropolitan River Protection Act (O.C.G.A. § 12-5-440 et seq.) shall remain in force.
6. The state-mandated 25-foot buffer shall not apply to the following land disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:
  - (i) Stream crossings for water lines; or
  - (ii) Stream crossings for sewer lines.
- i. The developer or property owner shall maintain ownership of the buffer areas. In instances of conflict between the buffers mandated by the Metropolitan River Protection Act and the buffers required by this article, the wider of the two required buffers shall apply.
- j. The donation (or dedication) of land for stream buffers, outside any floodplain area, may be compensated for by allocating the density of the donated (or dedicated) land to the owner's remaining property, if so requested by the



owner. The owner shall make the request to the director of the community development agency and the request shall be processed in accordance with section 134-35.

(16) Unless a larger buffer is specified on the current county stream buffer map, there is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to article 2 of chapter 5 of title 12, the "Georgia Water Quality Control Act," except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board of natural resources, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director of EPD may grant a variance from such buffer to allow land disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. No land disturbing activities shall be conducted within a buffer described in paragraph (15) or (16) and a buffer shall remain in its natural, undisturbed, state of vegetation until all land disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation beyond the first 50 feet as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer beyond the first 50 feet at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; trimming and thinning of vegetation within the first 50 feet of a stream buffer is allowed with the approval of the director or the director's designee; this 50-foot buffer shall not apply to the following land disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- a. Stream crossings for water lines; or
- b. Stream crossings for sewer lines.

(17) When a pond, either new or existing, is incorporated into a development, the developer shall note on his plans if the pond is to be used for sediment control and/or retention during construction. If the pond is to be used for sediment control, the developer or current title holder will be required to dredge,

clean and grass the pond upon completion of construction of the project and prior to acceptance by the county. Further, sediment control devices shall be required to protect downstream property during construction.

(18) Lakes, either new or existing, incorporated into a development shall not be used for sediment control and will be classified and used as adjacent property; hence, and therefore, siltation thereof will be treated as a violation of this article.

(19) Hazardous conditions at sediment basins and floodwater retention structures shall be fenced and posted to avoid danger to life or property.

(20) All erosion and sedimentation control measures, whether temporary or permanent, shall be maintained by the permittee or exempt person until the areas affected by such measures are permanently stabilized.

(Ord. of 3-27-90; Code 1977, § 3-6-110; Ord. of 11-14-95; Ord. of 7-27-99 (eff. 10-1-99); Ord. of 1-25-00; Ord. of 1-23-01; Ord. of 7-10-01; Ord. of 4-13-04; Ord. of 2-27-07)

State law references: Minimum standards, O.C.G.A. § 12-7-17.

Sec. 50-76. Application; plan requirements; permit process.

(a) General. The landowner, developer and designated planner, architects and engineers shall review the general development plans and detailed plans of the unincorporated areas of the county that affect the tract to be developed and the area surrounding it. They shall review and comply with the zoning regulations set forth in chapter 134, the subdivision regulations set forth in chapter 110, the flood damage prevention regulations set forth in chapter 58, the stormwater management concept and design requirements set forth in division 2 of article IV (stormwater management) of this chapter, the inspection and maintenance agreement requirements set forth in section 50-161, division 3 of article IV (stormwater management) of this chapter, and other county ordinances which regulate the development of land within the boundaries of the unincorporated areas of the county. All design related to stormwater management under this article and all subsequent articles set forth in chapter 50 shall conform with the technical guidelines and requirements set forth in the latest edition of the Georgia Stormwater Management Manual (Volumes 1, 2 and 3) and any relevant local addenda.

(b) Application requirements.

(1) No person shall conduct any land disturbing activity within the confines of the unincorporated areas of the county without first obtaining a permit, where required, from the issuing authority of the unincorporated areas of the county to perform such activity and providing a copy of the Notice of Intent submitted to the Georgia E.P.D. if applicable. A land disturbance permit for clearing and grading projects may only be obtained if such projects are part of a complete site/project plan review and approval (allowing for clearing and grading only phases, including a time table for final completion). Any clearing and grading activities permitted under this section shall comply with the provisions found in article VI of this chapter. In no event shall any portion of this section be

interpreted in any manner to reduce or diminish the use or density of any project where the county board of commissioners has approved such use or density.

(2) The application for a permit shall be submitted to the local issuing authority. Applications for permits will not be accepted unless accompanied by nine copies of the applicant's soil erosion and sedimentation and pollution control plan. These plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation and pollution control plans shall conform to the provisions of section 50-75. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10 or that such a visit was not required in accordance with rules and regulations established by the Board.

(c) Plan requirement.

(1) Standards and specifications. Plans for land disturbing activities shall contain soil erosion and sedimentation control measures and practices which conform to the publication entitled Manual for Erosion Control in Georgia or equivalent publication which is on file in the office of the issuing authority. The publication is hereby incorporated by reference in this article. The plan for the land disturbing activity shall consider the interrelationship of the soil types, geological, and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances, and state laws.

(2) Data required. The applicant's erosion and sedimentation control plan shall include, as a minimum, the following information for the entire tract of land to be disturbed, whether or not the tract will be developed in stages:

- a. Name, address, fax number, and phone number of applicants
- b. Name, phone number, and fax number of the 24-hour project manager and an alternate, who can be served with notice.
- c. Name, phone number, and fax number of 24-hour erosion sediment control company or individual.
- d. Certification number of company or individual responsible for design, installation, and maintenance of erosion sediment control devices. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements as developed by the commission pursuant to O.C.G.A. § 12-7-20
- e. Certification must be renewed and an approved course taken every two years.
- f. A narrative description of the overall project. This narrative shall include:
  1. Description of existing land use of project site and description of proposed project, including size of project, or phase under construction, in acres. An anticipated starting and completion date of each sequence and stage of land

disturbing activities and the expected date the final stabilization will be completed.

2. A description of the sediment control program and sediment control practices.
3. An adequate description of the general topographic and soils conditions of the tract as available from the district conservationist or the county soil and water conservationist of the county soil and water conservation district.
4. Activity schedule showing anticipated starting and completion dates for the project, including a statement in bold letters that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land disturbing activities."
5. A description of the maintenance program for sedimentation control facilities, including inspection programs, vegetative establishment of exposed soils, etc.
6. Engineer's erosion control certification in a form as prescribed by the director of the community development agency.

7. All information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbance permit was issued.

(3) Visual materials and computations. Maps, drawings and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements, as developed by the commission pursuant to O.C.G.A. § 12-7-20, showing the following:

- a. A site location drawing of the proposed project, indicating the location of the proposed project in relation to roadways, residential areas, jurisdictional boundaries, streams and rivers, limits of stream buffers and property setbacks, detailed plans of all proposed land development in the stream buffer, limits and square footage areas of all proposed impervious cover within the setback, description of all proposed land development within the stream buffer and setback, 100-year floodplains and designated trout streams, any other documentation that the community development department may reasonably deem necessary for review of the application and to insure that the stream buffer ordinance is addressed in the approval process.
- b. A boundary line survey of the site on which the work is to be performed including graphic scale and north point or arrow indicating magnetic north.
- c. A topographic map containing contours at an interval and scale that will depict the existing and finished grades (in accordance with a one-foot contour

interval for tracts with a zero to two percent ground slope, 1:100 or larger scale; a one-foot or two-foot contour interval for tracts with a two to eight percent ground slope, 1:100 or larger scale; a two-foot, five-foot, or ten-foot contour interval for tracts with an eight percent or greater ground slope, 1:100 or larger scale), existing and proposed watercourses, location and delineation of all buffers and proposed features of the development.

- d. Vegetative plans for all temporary and permanent vegetative measures, including species, planting date, seeding, fertilizer and mulching rates. The vegetative plan should show options for year-round seeding.
- e. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
- f. Stormwater management program if proposed, including the effect, if any, on downstream facilities and downstream properties.
- g. Major topographic features, streams, existing soil types and vegetation.
- h. Delineation of disturbed areas within project boundary.
- i. Location identified by appropriate coding symbols as shown in the Manual for Erosion and Sedimentation Control in Georgia or other appropriate publication.
- j. Details should describe installation procedures.
- k. Computations, timing schedules and other supportive data required for review of applicant's plan.
- l. Sediment and stormwater, where applicable, management systems including storage capacity, hydrologic study and calculations, including off-site drainage areas.
- m. Proposed structures or additions to existing structures and paved areas.
- n. All plans must contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10 or that such a visit was not required in accordance with rules and regulations established by the board.

(4) Maintenance.

- a. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the owner. It shall be the responsibility of the owner or his/her designee to post a maintenance log on site at all times. Said log will be posted on site with the land disturbance permit from the issuing authority. Said log must also be initialed on a weekly basis by the owner or his/her designee to indicate compliance with best management practices and the approved maintenance schedule.
- b. All plans must contain the following maintenance statement: "Erosion control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sedimentation control measures will be installed if deemed necessary by on-site inspection. On-site inspectors may add items to plans as necessary. On-site inspectors may delete items from plans subject to approval by the director of community development or his/her designee".

(d) Permits.

(1) Permits issuance or denial. A permit is issued after the issuing authority has determined that the plan for erosion and sedimentation control complies with the requirements of section 50-75 and after the issuing authority has affirmatively determined that the plan complies with all ordinances, rules and regulations in effect within the unincorporated areas of the county. Permits will be issued or denied as soon as practical after the permit is filed with the issuing authority. If the permit is denied, the reasons for the denial shall be furnished to the applicant.

(2) Staged developments. If the tract is to be developed in stages, then a separate permit shall be required for each phase.

(3) Suspensions, revocation or modification of permit. The permit may be suspended, revoked or modified by the issuing authority, as to all or any portion of the land affected by the plan, upon a finding that the holder or his successor in title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article or any ordinance, resolution, rule or regulation adopted or promulgated pursuant to this article. The holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

(4) Responsibility. Neither the issuance of the permit nor compliance with the conditions thereof, nor with the provisions of this article, shall relieve any person of any responsibility otherwise imposed by law for damage of persons or property; nor shall the issuance of any permit pursuant to this article serve to impose any liability upon the county, its officers, board members or employees, for injury or damage to persons or property. The permit issued pursuant to this article does not relieve the applicant of the responsibility of complying with any other county ordinance or state law.

(5) Special conditions. A permit issued by the issuing authority shall specify any special conditions under which the land disturbing permit may be undertaken.

(6) Fees. In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to OCGA § 12-7-8(a), half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) and (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction. (Ord. of 3-27-90; Code 1977, § 3-6-111; Ord. of 11-14-95; Ord. of 7-27-99 (eff. 10-1-99); Ord. of 1-25-00; Ord. of 1-23-01; Ord. of 4-13-04; Ord. of 2-27-07)

State law references: Permits for land disturbing activities, O.C.G.A. §§ 12-7-7, 12-7-9.

Sec. 50-77. Inspections.

(a) The local issuing authority will periodically inspect the sites of land disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land disturbing activities. If, through inspection, it is deemed that a person engaged in land disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he/she shall be deemed in violation of this article.

(b) The local issuing authority shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at a reasonable time upon any property, public or private, for the purpose of investigation and inspecting the sites of land disturbing activities.

(c) No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the conservation commission, the district or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties. (Ord. of 3-27-90; Code 1977, § 3-6-112; Ord. of 11-14-95; Ord. of 1-23-01; Ord. of 4-13-04)

Sec. 50-78. Penalties and incentives.

(a) Failure to obtain a permit for land disturbing activity. If any person commences any land disturbing activity requiring a land disturbing permit as prescribed in this article without first obtaining the permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.

(b) Stop work orders. For the first and second violations of the provisions of this article, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing

authority shall issue a stop work order requiring that land disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land disturbing activities are conducted without obtaining the necessary permit, the director or local issuing authority shall issue an immediate stop work order in lieu of a warning; for a third and each subsequent violation, the director or local issuing authority shall issue an immediate stop work order; and all stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his/her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed and maintained, a stop work order shall be issued by the local issuing authority or by the director or his /her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land disturbing activities on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) Notice of noncompliance. If, through inspection, it is determined that the person engaged in land disturbing activities has failed to comply with the approved plan or failed to comply with the applicable general design principles of subsection 50-75(c), a written notice to comply shall be served upon that person. The notice shall set forth the measures to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and deemed to have forfeited any required performance security if required to post one under the provisions of section 50-75. The issuing authority may call the performance security or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land disturbing activity and bring it into compliance.

(d) Withhold certificate of occupancy. The community development department may refuse to issue a certificate of occupancy for the build[ing] or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of noncompliance or has otherwise cured the aspects of noncompliance described therein.

(e) Suspension, revocation or modification of permit. The community development department may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of noncompliance or has otherwise cured the



aspects of noncompliance described therein, provided such permit may be reinstated (upon such conditions as the community development department may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such aspects of noncompliance.

(f) Civil monetary penalties. Any person violating any provision of this article, permitting conditions or stop work order shall be liable for a civil penalty or fine not to exceed \$2,500.00 per day, but in no event less than \$300.00. There shall be a minimum penalty of \$300.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and there shall be a minimum penalty of \$1,000.00 per day for each day for each violation involving land disturbing activities other than as provided above. Each day the violation continues shall constitute a separate offense. Any civil penalties imposed pursuant to this article shall be payable to the county, shall commence on the date of issuance of any stop work order or other notice of noncompliance and shall not be affected by the filing of any appeal; however, an appellant may, upon filing an appeal, post an appeal bond with the issuing authority in an amount equal to double the cost of any and all corrective work to be determined by the issuing authority; further, any civil penalty imposed pursuant to this article may, at the discretion of the issuing authority, be waived or reduced if, in the discretion of the issuing authority, the violator has taken sufficient and timely curative and corrective action. No inspections, certificate of occupancies, building permits or soil erosion permits will be granted to any person who has an outstanding fine for violating this article. Any person who violates any provisions of this article, the rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this article or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day.

(g) Criminal penalties. For intentional and flagrant violations of this ordinance, the community development department may issue a citation or accusation returnable to the magistrate court of the county. Notwithstanding any limitation of law as to penalties, which can be assessed for violations of county ordinances, the magistrate court of the county shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation or imprisonment for up to 60 days or both. Each day the violation continues shall constitute a separate offense.

(Ord. of 3-27-90; Code 1977, § 3-6-113; Ord. of 11-14-95; Ord. of 7-27-99 (eff. 10-1-99); Ord. of 1-23-01; Ord. of 4-13-04; Ord. of 2-27-07)

Sec. 50-79. Appeal of administrative decision.

(a) After having complied with the application requirements of the issuing authority, should the applicant dispute a decision of the issuing authority, the applicant may appeal to the board of commissioners by filing a notice of appeal with the issuing authority.

- (b) The notice of appeal shall address the reasons why the applicant's request, if granted, would not impair the quality, vitality or stability of the area affected by the application and would not destroy more than minimum amount of natural ground surface, vegetation or cover within such area.
- (c) The issuing authority shall review the notice of appeal and transmit to the board of commissioners a written report of its findings and recommendations, which shall become a part of the official record.
- (d) The board of commissioners, having received the report of issuing authority, making it a part of the official record, and having considered the written and oral statements of the applicant, and any other evidence, is authorized to hear and shall hear and decide appeals where it is alleged there is any error in any order, requirement, decision or determination made by the issuing authority in the administration or enforcement of this article, the decision of the board of commissioners shall not result in a violation or circumvention of any applicable condition of zoning, provision of the county zoning laws, subdivision regulations or any other regulation or ordinance.
- (e) A written copy of the findings and decision of the board of commissioners shall be transmitted to the applicant, and to the director of the issuing authority.
- (f) An applicant aggrieved by a decision of the board of commissioners pursuant to this article shall have the right of appeals to the superior court of the county by writ of certiorari.

(Ord. of 3-27-90; Code 1977, § 3-6-114; Ord. of 11-14-95)

State law references: Stop work orders, O.C.G.A. § 12-7-14.

Sec. 50-80. Effective date, validity and liability.

(a) Effective date. This article, as amended, shall become effective on January 23, 2001.

(b) Validity. If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this article.

(c) Liability.

(1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article, shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the issuing authority or district for damage to any person or property.

(2) The fact that a land disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act, or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

(Ord. of 11-14-95; Ord. of 1-23-01)

Sec. 50-81. Education and certification.

(a) After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.

(d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(Ord. of 4-13-04)

Secs. 50-82--50-100. Reserved.

## ARTICLE VII. NOISE\*

\*Cross references: Offenses and miscellaneous provisions, ch. 86.

Sec. 50-256. Violations and penalty.

(a) It shall be unlawful and punishable as provided in section 1-10 for any person within the unincorporated areas of the county to violate any of the provisions of this article.

(b) It shall be unlawful for any person to make, continue or cause to be made or continued any loud, ~~disturbing or unnecessary noise or any~~ noise which either ~~annoys~~, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the unincorporated areas of the county which is plainly audible one hundred (100) feet from the sound's point of origination, except as otherwise provided herein.

(Ord. of 10-12-82, § 2(a); Code 1977, § 3-18.5-2; Ord. of 7-27-04)

Sec. 50-257. Enumeration of prohibited noises.

The following acts are declared to be loud, disturbing ~~and unnecessary~~ noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

(1) Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the unincorporated areas of the county, except as a danger warning; the creation of any unreasonably loud or harsh sound by means of any signaling device and the sounding of any device for an ~~unnecessary and~~ unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(2) Radios, phonographs, musical instruments. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with a volume louder than ~~necessary~~ ~~for~~ the convenient hearing of a person, not hearing impaired, who is within 40 feet of the device if outdoors, or in the room, vehicle or chamber in which the machine or device is operated, and who is a voluntary listener thereto. The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at a distance of 50 feet from the device if outdoors, or 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.

(3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical

instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(4) Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place, so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.

(5) Animals, birds. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity. This section shall not apply to horses, livestock, poultry or other farm animals, provided they are maintained in accordance with county zoning regulations or ordinances.

(6) Exhausts. The discharge into the open air of the exhaust of any steam engine, internal-combustion engine or motorboat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud, ~~and unnecessary~~ grating, grinding, rattling or other noise.

(8) Construction or repair of buildings. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, electric saws, drills or any other equipment attended by loud ~~or unusual~~ noise, other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday.

(9) Streets adjacent to schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which ~~unreasonably~~ interferes with the normal operation of that institution, or which disturbs ~~or unduly annoys~~ patients in the hospitals, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.

(10) Hawkers, peddlers, vendors. The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(11) Noises to attract attention. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(12) Blowers. The operation of any noise-creating blower or power fan or any internal-combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden the noise.

(13) Sound trucks. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles during hours and in places and with such volume as would constitute this use as a public nuisance; provided, that the provisions of this section shall not apply to or be enforced against:

- a. Any vehicle in the unincorporated areas of the county while engaged in necessary public business.
- b. Excavations or repairs of streets by or on behalf of the city, county or state at night when public welfare and convenience renders it impossible to perform such work during the day.
- c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(14) Motorcycles, go-carts and other motor vehicles. The operation of a motorcycle, motorized scooter, go-cart or other motorized vehicle in a manner which creates excessive noise, including the continuous riding of any such vehicle past, around or near an inhabited dwelling place so as to disturb or ~~unduly annoy~~ its inhabitants.

(Ord. of 10-12-82, § 2(b); Code 1977, § 3-18.5-3; Ord. of 9-10-02; Ord. of 7-27-04)

State law references: Limits on volume of mechanical sound making devices located within motor vehicles, O.C.G.A. § 40-6-14; motor vehicle mufflers, O.C.G.A. § 40-8-71; boat mufflers, O.C.G.A. § 52-7-10.

Sec. 50-258. Exceptions to article.

(a) Any person whose operations or business within the unincorporated areas of the county is currently licensed under an existing county ordinance which prohibits the creation of disturbances or creation of nuisances on or emanating from the premises shall be exempt from the provisions of this article so long as the license under the existing ordinance remains valid.

(b) This article shall not apply to activities conducted upon county property with the prior permission of the county or by a licensee of the county for the use of county facilities so long as the license to use the property remains valid.

(c) This article shall not apply to school-sponsored activities conducted upon school grounds. "School" for the purpose of this section means a private, parochial or public kindergarten, elementary, middle, junior high or high school or college which teaches subjects commonly taught in the public schools and colleges of this state.

(Ord. of 10-12-82, § 3; Code 1977, § 3-18.5-4)

Secs. 54-32--54-~~50-49~~. Reserved.

### ARTICLE III. FIRE SAFETY STANDARDS\*

\*State law references: Regulation of fire and other hazards to persons and property generally, O.C.G.A. § 25-2-1 et seq.

Sec. 54-~~51-50~~. Penalty for violation of article.

(a) Any person who shall violate any of the provisions of this article or fail to comply herewith, or who shall violate or fail to comply with any order made hereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved under this article, or any certificate or permit issued under this article, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of commissioners or by a court of competent jurisdiction, within the time fixed therein, shall severally for each such violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine not exceeding \$1,000.00, imprisonment in the county jail for a term not exceeding 60 days, or both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the penalty set out in this section shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. of 6-8-71, § 7; Code 1977, § 3-13-38)

#### **Sec. 54-51 Life Safety Certificate of Occupancy Requirement**

(a) This code section shall apply to the State Minimum Fire Safety Standards enforced by the Fire Marshal's Office. This code section shall not apply to separate certificate of occupancy requirements enforced by the Building Department.

(b) Every building, structure, or tenant space shall have a certificate of occupancy issued by the Cobb County Fire Marshal's Office before such building, structure, or tenant space may be occupied. Such certificates of occupancy shall be required for each business establishment within the building, shall state the occupant load for such business establishment or building, and shall be posted in a prominent location within such business establishment or building.

Exception 1: One- and Two- family dwellings, one- and two-family row houses (townhouses) separated by a 2-hour fire wall and two-family town houses separated by a 2-hour fire wall.

Exception 2: Residences providing in-home day care (if five or less clients/attendees) and businesses not open to the public located in one- and two- family dwellings.

(c) Such certificates of occupancy shall run for the life of the building, structure or business except where there is an addition, renovation, substantial renovation, a fire or other hazard of serious consequence, or a change in the classification of occupancy.

(d) Change in occupancy includes changes that place the building, structure, or business in a different division of the same group or occupancy, or in a different group of occupancies.

(e) Change in classification of occupancy, substantial renovation, a fire or other hazard of serious consequence requires that the building, structure, or business therein, be constructed to meet requirements for new construction of the code edition adopted at the time of the reconstruction or renovation.

(f) For the purposes of this code section, substantial renovation means any construction project involving exits or internal features of such building, or structure costing more than the building's or structure's assessed value according to county tax records at the time of such renovation.

Sec. 54-52. International Fire Code adopted.

The edition of the International Fire Code is adopted .....



Sec. 54-54. State minimum standards adopted.

The state minimum fire safety standards adopted in the rules and regulations promulgated to O.C.G.A tit.25, ch 2 (O.C.G.A. 25-2-1 et seq.), including all subsequent revisions thereof, are adopted by reference.

The state minimum fire safety standards shall apply to all structures in Unincorporated Cobb County and the Cities of Acworth, Kennesaw, and Powder Springs except for one-family and two-family dwellings.

Sec. 70-26. Purpose and intent.

Given the undue burden placed on law enforcement providers by excessive false alarms, this article is enacted to establish reasonable expectations for alarm users regarding the responsible use and operation of alarm systems. The article is not intended to create new or to expand existing legal obligations of the county, including specifically the Cobb County Department of Public Safety Agency and any of its departments, or to establish a special duty or special relationship between the county and alarm users, persons who own real or personal property where an alarm system is in place, and/or persons who are physically present at or in the vicinity of property monitored by an alarm system. (Amd. of 2-26-08, eff. 1-1-09)

Sec. 70-27. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alarm administrator.* The term "alarm administrator" means a sworn employee designated by the county to administer, control and review false alarm reduction efforts and to administer the provisions of this ordinance.

*Alarm contractor.* The term "alarm contractor" means an individual, company, and/or other entity engaged in selling, leasing, installing, servicing or monitoring alarm systems for profit; such individual, company, and/or entity shall be licensed in compliance with city, county and state laws.

*Alarm permit.* The term "alarm permit" means a ~~permit~~ registration number issued by the county or its designee allowing the operation of an alarm system.

*Alarm signal.* The term "alarm signal" means a detectable signal, audible or visual, generated by an alarm system, to which law enforcement is requested to respond.

*Alarm system.* The term "alarm system" means any single device or assembly of equipment and devices, including a local alarm, that is designed to signal the occurrence of an illegal or unauthorized entry or other activity requiring immediate attention and to which law enforcement is requested to respond.

Motor vehicle or boat alarms, fire alarms, ~~domestic violence~~ panic alarms, or alarms designed to elicit a medical response are not considered to be alarm systems under this article.

*Alarm user.* The term "alarm user" means any individual, sole proprietorship, partnership, company, corporation, governmental, educational, nonprofit, or any other entity or institution owning, leasing or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

*Alarm user awareness class.* The term "alarm user awareness class" means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.

*Automatic dial protection device.* The term "automatic dial protection device" means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates to the emergency communications center a recorded message or code signal indicating a need for law enforcement response.

*Cancellation.* The term "cancellation" means notice from an alarm contractor (designated by the alarm user) to the emergency communications center to terminate a law enforcement response to an alarm dispatch request under circumstances where there is no situation at the alarm site requiring a law enforcement response.

*Cobb County Department of Public Safety (CCDPS).* The term "Cobb County Department of Public Safety (CCDPS)" means, for the purposes of this article only, the Cobb County Department of Public Safety Agency, with the exception of the Cobb County Fire and Emergency Services Department.

*Emergency communications center.* The term "emergency communications center" means the Cobb County Department of Public Safety's Emergency Communications (911) Center.

*False alarm.* The term "false alarm" means the activation of an alarm system to summon law enforcement personnel which occurs as a result of mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user or his employees or agents, unless the law enforcement response was cancelled by the alarm user or his agent before law enforcement personnel arrive at the alarm location. An alarm is false when, upon determination by the responding officer, no unauthorized entry, robbery, or other crime was committed or attempted in or on the premises which would have activated a properly functioning alarm system.

*Local alarm.* The term "local alarm" means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and that is not monitored by a remote monitoring facility, whether installed by an alarm contractor or user.

*Monitoring services.* The term "monitoring services" means an alarm contractor in the business of receiving signals from an alarm system that is responsible to contact the alarm user to verify the nature of the alarm and/or to contact the emergency communication center for a law enforcement response.

*Permit year.* The term "permit year" means the a 12-month period between January 1<sup>st</sup> and December 31<sup>st</sup>, ~~beginning on the day and month on which an alarm permit is issued.~~

*SIA Control Panel Standard CP-01.* The term "SIA Control Panel Standard CP-01" means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by a nationally recognized testing organization are to be marked to state: "Design evaluated in

accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

*Verify.* The term "verify" means an action on the part of the entity providing monitoring services, prior to requesting law enforcement dispatch, to determine whether an alarm signal is valid and caused by criminal activity.

(Amd. of 2-26-08, eff. 1-1-09)

Sec. 70-28. Alarm ~~registrations and~~ registration and permit requirements.

(a) *Registration and permit required.* Effective October 1, 2008, no alarm system shall be used unless the alarm user first registers ~~and obtains a permit~~ for such alarm system within seven (7) days of its installation with ~~from~~ the county or its designee. For the purposes of complying with this section, an alarm contractor may register an alarm user and thereby obtain the permit for such alarm system; provided, however, that the alarm user shall ultimately remain responsible for alarm registration ~~and obtaining a permit~~ prior to use of the alarm system. Upon registration, each alarm permit shall be assigned a permit number. If the permit number is issued directly to the alarm user, the user shall provide the permit number to the alarm contractor to facilitate law enforcement dispatch.

(b) *Nontransferability; new registration required.* Alarm registration is ~~permits are not~~ transferable. Upon transfer of the possession of premises at which an alarm system is maintained, the new alarm user shall register his or her ~~for an alarm system permit~~ within seven (7)30 days of the acquisition ~~obtaining possession of the property or installation of a new alarm system.~~

(c) *Multiple alarm systems.* If an alarm user has one or more alarm systems protecting two or more separate structures with different addresses and/or tenants, a separate permit shall be required for each structure and/or tenant.

(Amd. of 2-26-08, eff. 1-1-09)

Sec. 70-29. Duties of the alarm user.

An alarm user shall be required to:

- (a) Register the ~~and obtain an~~ alarm system ~~permit~~ in accordance with section 70-28;
- (b) Maintain the premises and the alarm system in a manner that will reduce or eliminate false alarms;
- (c) Upon obtaining a permit number, provide that number to the alarm contractor;
- (d) Respond or cause a representative or other responsible party to respond to the alarm system's location within 30 minutes upon notification from the emergency communications center of the need to deactivate a malfunctioning alarm system;
- (e) Ensure that an alarm is not manually activated by the alarm user or any other person for any reason other than an occurrence of an event that the alarm system was intended to report;

(f) Obtain a new permit if there is a change in address or ownership of a business or residence.

(Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-30. Duties of the alarm contractor.

(a) An alarm contractor shall be required to:

- (1) Obtain and maintain required state and local license(s) and/or permits;
- (2) Maintain current contact information, including user permit numbers, which shall be provided to the emergency communications center at the time of a request for law enforcement response; and
- (3) Upon request, provide to the emergency communications center the name, address, and telephone number of the license holder or a designee, who can be called in an emergency, 24 hours a day and who shall be able to respond to an alarm call, when notified, within 30 minutes.

(b) For all installations on or after January 1, 2009, an alarm contractor shall use only alarm control panel(s) which meets SIA Control Panel Standard CP-01.

(c) Prior to activation of any alarm system, the alarm contractor must (i) provide verbal and written instructions regarding the proper operation of the alarm system to the alarm user and (ii) provide written information on how to obtain service from the alarm contractor.

(d) An alarm contractor performing monitoring services shall:

- (1) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, at a minimum, that, if the first attempt fails to reach an alarm user, the alarm contractor must make a second call to a different number in an effort to reach an alarm user who can provide proper identification and assist in determining whether an alarm signal is valid. ~~provided however, that such~~

a. The failure of an alarm contractor, or any person or entity providing similar monitoring services, to attempt to verify the alarm signal will not negate the end user's responsibility for violations of Subsection (b) of Code Section 70-31 and any penalty or fine associated therewith.

b. Such second call for verification shall not be required in the event of a panic or robbery-in-progress alarm or in cases where a crime-in-progress has been verified by video and/or audible means.

(2) Communicate any specific information that will assist law enforcement response and investigation to the emergency communications center at the time of a request for assistance.

(3) Communicate a cancellation to the emergency communications center immediately upon determining that a response is unnecessary.

(Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-31. Prohibited acts.

Effective January 1, 2009, the following acts are prohibited:

- (a) The failure to obtain an alarm permit or to renew an alarm permit.
  - (b) Activating or maintaining an alarm system that activates for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises. This shall include both monitored alarm systems and unmonitored local alarms.
  - (c) Installing, maintaining, or using an audible alarm system which can sound continually for more than ten minutes.
  - (d) Installing, maintaining, or using an automatic dial protection device that reports, or causes to be reported, any recorded message to the emergency communications center.
- (Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-32. Enforcement.

Effective January 1, 2009, enforcement for violations of this article shall be carried out in accordance with this section.

- (a) *Excessive false alarms/failure to register.* Alarm users shall be fined for excessive false alarms and/or failure to register during the permit year in accordance with the following civil fine schedule:

First and second false alarm . . . No charge

Third false alarm . . . \$50.00

Fourth false alarm . . . 75.00

Fifth false alarm . . . 100.00

Sixth false alarm . . . 125.00

Seventh false alarm . . . 150.00

Eighth false alarm . . . 200.00

Ninth false alarm . . . 250.00

Tenth false alarm . . . 300.00

Failure to register . . . 100.00

- (b) *Other civil fines.* All other violations of article II, alarm systems, will be enforced through the assessment of civil fines in the amount of \$100.00.

- (c) *Payment of civil fines.* All civil fines shall be paid within thirty (30) days from the date of the invoice.

- (d) *Limitations on responses for excessive false alarms or nonpayment.* When an alarm user has ten (10) or more than ten false alarms during the permit year or when the alarm user is sixty (60) or more days delinquent on payment of fails to pay any civil fine ~~within 30 days from the date of invoice~~, a law enforcement response to the alarm user's permitted location will only be initiated in response to a 911 call to the emergency communications center or upon verification by the alarm contractor or user that the alarm was set off as a result of criminal activity. Normal alarm responses by CCDPS will be restored under the following circumstances:

- (1) When a user files an appeal; and

- (2) The an alarm user who has had ~~more than~~ ten (10) or more false alarms during the permit year presents satisfactory proof to the alarm administrator that

he has taken successful measures to correct the cause of the false alarms; normal alarm responses will be restored at the outset of the following permit year; and/or

~~(2) When the~~ (3) The county receives full payment from the alarm user who is sixty (60) or more days delinquent on payment of ~~has failed to pay~~ any civil fine ~~within 30 days from the date of the invoice.~~

(e) In the event the appeal is granted and service is restored, an additional false alarm shall cause the service to again enter non-response status. Additionally, the false alarm shall be penalized by a civil fine of \$300.

(f) Civil violation. A violation of any of the provisions of this article shall be a civil violation.

(Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-33. Alarm user awareness class.

The county may create and implement alarm user awareness classes and may request the assistance of alarm contractors to assist in developing and implementing such classes. The classes shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms. The county may grant the option of attending a class in lieu of paying one assessed fine.

(Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-34. Appeals.

Assessment of any civil penalty and other enforcement decisions may be appealed in accordance with procedures that shall be established by the county.

(Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-35. Confidentiality.

In the interest of public safety, all information contained in and gathered through the alarm registration applications, "no response" records, applications for appeals and any other alarm records shall be held in strict confidence by all employees and/or representatives of the county. Because all alarm registration information is considered sensitive public safety information, the same shall not be available to the public, unless otherwise required by law.

(Amd. of 2-26-08, eff. 1-1-09)

#### Sec. 70-36. Immunity.

Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By registering an alarm system, the alarm user acknowledges that the CCDPS response may be influenced by factors such as: the availability of police units,

priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.  
(Amd. of 2-26-08, eff. 1-1-09)

Sec. 70-37. Reserved.

Editor's note: Section 70-37, interim provisions, became effective March 26, 2008, until Jan. 1, 2009, at which time §§ 70-26--70-36 became effective, rendering § 70-37 no longer required.



## ARTICLE I. IN GENERAL

### Sec. 78-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:.....

Employee means:

- (1) Except as otherwise provided in subsection (b) of this subsection an individual whose work is performed under the direction and supervision of the individual's employer and whose employer withholds FICA, federal income tax or state income tax from such individual's compensation or whose employer issues to such individual for purpose of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.
- (2) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

~~Engaged in business means any person who within the unincorporated area of the county engages in any activity with the object of profit, gain, benefit or advantage, including, but not limited to, selling real or personal property or services, leasing or renting real or personal property, or sales or services of the character as made by a wholesaler or retailer; or who is involved in any of the functions performed as a manufacturer; or who is involved in the development or construction of real property. Such term shall include but not be limited to an owner, operator, representative or agent in any business, trade, profession or occupation who represents himself to be engaged in any occupation or activity with the object of gain, benefit or advantage, either directly or indirectly.~~

Engaged in business shall maintain its ordinary and customary usage according to context but also may be used to generally identify a person or entity carrying on a trade, occupation, profession, or other commercial enterprise for gain or profit, direct or indirectly, including, but not limited to, selling real or personal property or services, leasing or renting real or personal property, or sales or services of the character as made by a wholesaler or retailer; or who is involved in any of the functions performed as a manufacturer; or who is involved in the development or construction of real property.

Gross receipts.....

Sec. 78-3. Exemptions from chapter.

The following businesses or practitioners shall be excluded from the provisions of this chapter:

- (1) Those businesses regulated by the state public service commission.
- (2) Those electrical businesses organized under O.C.G.A. tit. 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.).
- (3) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness.
- (4) Homeowner associations and condominium associations which are required by declaration of condominium or protective covenants filed in conjunction with the development of real property in the office of the clerk of superior court.
- (5) State or local authorities and nonprofit organizations as provided in O.C.G.A. § 48-13-13(5); however, nonprofit organizations shall still be required to register with the business license division.
- (6) Any entity, a natural person, his spouse, and his minor children collectively who receives less than \$25,000.00 annually of gross receipts from the rental of real property.
- (7) Any entity or person who is solely engage in the rental of detached single-family residential real property.
- ~~(6)-(8)~~ All practitioners or professions as set forth in O.C.G.A. § 48-13-9(c)(1 through 22). Notwithstanding, with the exception of lawyers and law firms, said professionals shall be subject to section 78-1, 78-4, 78-5, 78-6, 78-7, 78-31(b), 78-32 as it relates to the payment of an occupation tax, 78-33, 78-34, 78-35, 78-36, 78-37, 78-38, 78-39, 78-40, 78-41(c), 78-42(c), 78-43(a), 78-46(b) and (c). Lawyers and law firms shall be exempt from all provisions of this chapter with the exception of article VI.

(Ord. of 10-25-94; Code 1977, § 3-7-1(d); Ord. of 6-27-95(1); Ord. of 6-10-97 (eff. 6-10-97); Ord. of 6-23-98 (eff. 7-1-98); Ord. of 8-10-99)

**State law references:** Similar provisions, O.C.G.A. § 48-13-16.

## Subdivision I. In General

Sec. 78-320. Purpose and preamble. The purpose of this ~~article~~ division is to regulate certain types of businesses, including but not limited to adult entertainment establishments to the end that the many types of criminal activities frequently engendered by such businesses and the adverse effect on property values and on the public health, safety and welfare of the county, and on its citizens and property, and on the character of its neighborhoods and development, will be curtailed. This ~~article~~ division is not intended as a de facto prohibition of legally protected forms of expression. This ~~article~~ division is intended to represent a balancing of competing interests: reduced criminal activity and protection of neighborhoods and development through the regulation of adult ~~entertainment~~ establishments where adult entertainment is permitted and other sexually oriented businesses, such as adult book stores and adult video stores, versus any legally protected rights of adult entertainment establishments and patrons. This ~~article~~ division is not intended to allow or license any business, establishment or activity which would otherwise be unlawful.

The county is an attractive place for the location of commercial enterprises and of residences for families and the board of commissioners is committed to adopting ordinances designed to protect the quality of life for its citizens.

The state supreme court, in *Chambers d/b/a Neon Cowboy v. Peach County, Georgia*, 266 Ga. 318 (1996), held that local governments may adopt ordinances designed to combat the undesirable secondary effects of sexually explicit businesses, and further held that a governing authority seeking to regulate adult entertainment establishments must have evidence of a relationship between the proposed regulation and the undesirable secondary effects it seeks to control. The state supreme court further held in the same opinion that in passing its regulations, a local government may rely on the experience of other counties and municipalities to demonstrate such a relationship.

The United States Supreme Court, in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), held that a local government may rely on the experience of other cities in enacting legislation to regulate adult entertainment businesses.

Whereas, federal and state appellate courts, have previously held that before enacting an ordinance to combat undesirable secondary effects of adult entertainment, a legislative body is required to consider specific evidence of the undesirable secondary effects of adult entertainment establishments that it reasonably believes relevant to the interests it seeks to address by passing the ordinance; and

Based on the experiences of other municipalities and counties including, but not limited to, Sandy Springs, Georgia; City of St. Mary's, Georgia; Rome,

Georgia; Gwinnett County, Georgia; Hamilton County, Tennessee; Adams County, Colorado; New York City, New York; Indianapolis, Indiana; Dallas, Texas; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Phoenix, Arizona; Manatee County, Florida; City of Garden Grove, California; Forth Worth, Texas; Houston, Texas; St. Cloud, Minnesota; Whittier, California; and the City of Los Angeles, California which are found to be relevant to the problems faced by the county, the board of commissioners notes the documented negative economic, physical, and social impact adult entertainment businesses have on the community.

Whereas, based upon the experience of other urban counties and municipalities, which experiences the board of commissioners finds are relevant to the problems faced by the county, and which do not vary greatly among generally comparable communities within this country, the board of commissioners finds that public nudity, under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in adult entertainment establishments offering adult entertainment, begets criminal behavior and tends to create undesirable community conditions; and

Whereas, the board of commissioners of the county finds and declares that nudity and sexual conduct and depiction thereof, coupled with alcohol in public places, encourages undesirable behavior and is not in the interest of public health, safety, and welfare; and

Whereas, the board of commissioners has chosen to avoid the disturbances associated with mixing alcohol and nude dancing by means of a reasonable restriction upon establishments which sell spirituous or vinous liquors or malt or brewed beverages; and

Whereas, Article III, Section VI, Paragraph VII of the Constitution of the State of Georgia, delegates authority to counties and municipalities "for the purpose of regulating, restricting, or prohibiting the exhibition of nudity, partial nudity, or depictions of nudity in connection with the sale or consumption of alcoholic beverages;" and

Whereas, the United States Eleventh Circuit Court of Appeals has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments; and

Whereas, the Supreme Court of Georgia has upheld a municipal ordinance prohibiting the serving or consumption of alcoholic beverages in adult entertainment establishments;

Whereas, among the undesirable community conditions identified with live nude entertainment and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order; increased burden on the judicial system as a consequence of the criminal behavior, and acceleration of community blight; ~~and~~ Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); 5634 East Hillsborough Ave., Inc. v. Hillsborough County, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4279670 (11<sup>th</sup> Cir.

Sept. 18, 2008) (per curiam); California v. LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981).

Whereas, the ordinance furthers important governmental interests of reducing crime and protecting property values which are unrelated to the suppression of speech; and

Whereas, it is the intent of the board of commissioners to enact an ordinance, narrowly tailored, sufficient to combat the undesirable secondary effects of the serving and consumption of alcoholic beverages at adult entertainment facilities; and

Whereas, it is not the intent of the board of commissioners, in enacting this ordinance to deny to any person the right to speech or expression protected by the United States or Georgia Constitutions, nor it is the intent to deny or restrict the rights of any adult to obtain or view any sexually oriented performance or materials protected by the United States or Georgia Constitutions, but to adopt a content neutral ordinance to combat the undesirable secondary effects of adult entertainment where alcoholic beverages are served or consumed; and

The board of commissioners further finds that other forms of adult establishments, including, but not limited to, adult book stores, adult novelty shops, adult video stores, peep shows, and adult theaters have an adverse effect on the quality of life in surrounding communities.

The board of commissioners finds that the negative secondary effects of adult establishments upon the community in the county are similar whether the business features live nude dancing, sells books, video tapes or other media depicting sexual activities or sexual devices or allows the exhibition of sexually explicit films or videos on the premises of the adult entertainment establishment. H & A Land Corp. v. City of Kennedale, 480 F.3d 336 (5<sup>th</sup> Cir. 2007); High Five Investments, LLC v. Floyd County, No. 4:06-CV-0190-HLM (N.D. Ga. Mar. 14, 2008).

Therefore, the board of commissioners finds that it is the best interest of the health, welfare, safety and morals of the community and the preservation of its businesses, neighborhoods, and of churches, schools, residential areas, public parks to prevent or reduce the adverse impacts of adult establishments by imposing regulations pertaining to the exhibition of sexually explicit films or videos, regulations on loitering, visibility and monitoring requirements, prohibiting the sale of alcohol sale or consumption, and restricting the distance from other adult establishments and providing for minimum distance requirements from residential areas, schools, public parks, churches and other sensitive uses as set forth in this ordinance.

The board of commissioners finds that licensing and regulations are necessary for any adult entertainment establishment.

Whereas, this division is enacted to further the health, safety, and welfare of the citizens of the county.

Now therefore, the board of commissioners adopts this division pursuant to its powers and authority and pursuant to the powers under the Twenty-first Amendment to the Constitution of the United States and Article III, Section VI, Paragraph VII of the Constitution of the State of Georgia delegated to it by the State of Georgia.

Sec. 78-321. Definitions.

(a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Church* means a place where persons regularly assemble for religious worship.

*Conviction* means adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act.

*Distance* and *measurement* mean the measurement in lineal feet from the center of any door of customer entry of the proposed premises of an adult entertainment establishment (or, if not on ground level, then the beginning point for measuring the distance shall be the point at ground level determined by measuring from the center of any door of customer entry perpendicular to the ground level) to the nearest property line of any church, library, school, college, public park, residence or hospital. A radius shall be measured from the center of any door of customer entry of the proposed premises to the nearest property line of any church, library, school, college, public park, residence or hospital.

~~*Good moral character* means a person who has not been convicted of drug or alcohol-related felony, sex-related crime or a crime involving moral turpitude in the past ten years and does not have an outstanding arrest warrant for a drug or alcohol-related felony, or sex-related crime, or a crime involving moral turpitude.~~

*Hospital* means building or portion thereof designed and used for therapudic treatment of bed patients who are physically or mentally ill.

*Legal alien* means a person who is recognized by the United States government as being a legal alien.

*Minor* means any person who has not attained the age of 18 years.

*Park* means any lands or facility owned, operated, controlled or managed by any county, city or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

*Premises* means the real property upon which the adult entertainment establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the licensee, as described in the application for the license herein.

*Residence* means a house, apartment, mobile home, boardinghouse or roominghouse, duplex or other multifamily housing for human dwelling, or any property zoned therefor.

*School* means state, county, city, church or other schools, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high-school learning centers, kindergartens and day care centers for persons of all ages.

(b) As used in this division, the following words or phrases shall have the following meanings, and the premises on which defined establishments operate or on which defined activities occur shall constitute adult entertainment establishments. None of the definitions contained in this section shall be construed to permit any act that is in violation of county or state law:

*Adult bookstore* means an establishment having 25 percent or more of its stock in trade, books, printed material, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section, comprising 25 percent or more of its total floorspace, devoted to the sale or display of such material, or with 25 percent or more of its net sales consisting of printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

~~*Adult business* means an establishment other than those expressly specified in this division, where employees or patrons expose specified anatomical areas or engage in specified sexual activities, or any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas. The definition of "adult business" shall not include traditional or mainstream theater which means theater, movie theater, concert hall, museum, educational institution or similar establishment which regularly features live or other performances or showings which are not distinguished or characterized by an emphasis on the depiction, display, or description or the featuring of specified anatomical areas or specified sexual activities in that the depiction, display, description or featuring is incidental to the primary purpose of any performance. Performances and showings are regularly featured when they comprise 80 percent of all performances or showings.~~

*Adult Entertainment* means live conduct characterized by the display of specified anatomical areas.

~~*Adult dancing establishment* means any establishment or facility business or establishment where adult entertainment is regularly sponsored, allowed, presented, sold or offered to the public, that features dancers displaying or exposing specified anatomical areas.~~

*Adult Entertainer* means any person employed by an adult entertainment establishment who exposes his or her specified anatomical areas on the premises

of the establishment. For purposes of this division, adult entertainers include employees as well as independent contractors.

*Adult hotel or motel* means a hotel or motel whose primary purpose along with lodging is the presentation of material which is distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas.

*Adult mini-motion picture theater* means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theater* means an enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult video store* means an establishment having, 25 percent or more of its stock in trade, videotapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section, comprising 25 percent or more of its total floorspace, devoted to the sale or display of such material, or which derives more than 25 percent or more of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

~~*Bathhouse and massage parlor* mean an establishment to which the public is permitted or invited and in which services offered include some form of physical contact between employee and patron and in which services offered are characterized or distinguished by an emphasis on specified sexual activities or specified anatomical areas.~~

~~*Encounter Center and rap establishment* means any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.~~

*Erotic entertainment/dance establishment* means a nightclub, theater or other establishment which features live performances by topless or bottomless dancers or entertainers, go-go dancers, strippers or similar entertainers, where such



performances are distinguished or characterized by an emphasis on ~~specified sexual activities or~~ specified anatomical areas.

~~*Escort bureau and introduction service* mean any business, agency or person who, for a fee, commission, hire, reward, profit or other consideration, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons, who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others in any place of public resort or within any private quarters.~~

*Seminude* means the exposure of one or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

*Specified anatomical areas* ~~includes~~ shall include any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttock or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

*Specified criminal activities* shall include any of the following specified crimes for which less than ten years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date: (1) rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency; (2) prostitution, keeping a place of prostitution, pimping, or pandering; (3) obscenity, distributing or displaying obscene material to a minor or use of minor in sexual performance; (4) any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity; (5) any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or (6) any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

*Specified sexual activities* shall include any of the following:

- (1) ~~Actual or simulated~~ Sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, masturbation, ~~or direct physical stimulation of unclothed genitals~~, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism or zooerasty;
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

~~(4) Fondling or touching of nude human genitals, public region, buttocks or female breasts;~~

~~(5)~~ (4) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;

~~(6)~~ (5) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

~~(7)~~ (6) Human excretion, urination, menstruation, or vaginal or anal irrigation.

*Supervisor* means the supervisor of the business license division of the county.

Sec. 78-322. Enforcement of division; penalty.

(a) *Penalty.* Any person violating the provisions of this division shall be punishable by a fine not to exceed \$500.00 or imprisonment for 60 days, or both.

(b) *Suspension or revocation of license.* Violations of this division shall be considered due cause as defined in section 78-371 for suspension or revocation of any license issued under this division.

Sec. 78-323. Reserved.

Sec. 78-324. Unlawful operation declared nuisance; compliance with zoning and building codes.

(a) Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this division shall be and the same is hereby declared to be unlawful and a public nuisance. The county may, in addition to or in lieu of all other remedies, commence an action or proceeding for abatement, removal or enjoinder thereof, in the manner provided by law. The county may take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, engaging in, conducting or carrying on an adult entertainment establishment contrary to the provisions of this division.

(b) No adult entertainment establishment shall be ~~conducted~~ located on any premises or conducted in any manner which does not comply with all zoning, building code, fire and other applicable ordinances and laws of the county and the state.

Sec. 78-325. Admission of minors.

It shall be unlawful for any person or licensee to admit or permit the admission of minors or allow a minor to remain within premises licensed under this division.

Sec. 78-326. Sales to minors.

It shall be unlawful for any person to sell, exchange, barter, trade, give, or offer to sell, exchange, barter, trade or give, to any minor any entertainment, service,

material, device or thing offered, for sale or otherwise, at an adult entertainment facility establishment.

Sec. 78-327. Prohibited acts.

(a) No person shall conduct any illegal activity in or upon any premises licensed under this division.

(b) No licensee shall permit or suffer an employee or other person to appear nude, ~~or~~ semi nude or offer adult entertainment where there is an individual payment, offer or solicitation of money occurring between a patron and an ~~employee~~ adult entertainer.

(c) No licensee shall permit any employee or patron to use artificial devices or inanimate objects to come in contact with specified anatomical areas while offering adult entertainment. ~~depict any of the prohibited activities described in this section.~~

(d) No licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or ~~necessity~~ bonafide medical purpose.

~~(e) No licensee shall suffer or permit an employee or any person on the premises to engage in actual or simulated genital masturbation or, in the case of females, fondling of the breasts.~~

~~(f) No licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.~~

~~(g) No licensee shall suffer or permit an employee or any person on the premises to engage in or simulate bestiality.~~

~~(h) (e)~~ (e) No person, while on any licensed premises, shall expose ~~or be permitted to expose to public view with less than full opaque covering his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage,~~ specified anatomical areas in a lewd and obscene fashion.

(f) No adult entertainer, other employee, patron or other person at an adult entertainment establishment shall, while on the premises of an adult entertainment establishment, commit the offense of public indecency as defined in O.C.G.A. § 16-6-8, as amended.

~~(i) (g)~~ (g) No employee or person while on licensed premises shall expose or be permitted to dance or perform nude or semi-nude in such a manner as to simulate sexual activity with any patron, spectator, employee or any other person ~~not employed therein~~.

~~(j) No person, while on licensed premises, shall, while nude or semi-nude, be permitted to sit upon or straddle the leg, legs, lap or body of any patron, spectator, employee or other person therein, or to engage in or simulate sexual activity while touching or being touched by such patron, spectator or other person.~~

~~(k) (h)~~ (h) No licensee shall suffer or permit the use of any areas on the premises of such establishment for sexual contact or private ~~dancing~~ performance off adult entertainment.

~~(l) No licensee shall suffer or permit any signage or advertisement which encourages, solicits, induces or promotes conduct or activities proscribed by this division.~~

~~(m)~~ (i) No alcoholic beverages of any kind shall be sold, possessed or consumed on the premises.

~~(n)~~ (j) No drugs or illegal or controlled substances of any kind shall be allowed, permitted, used, possessed or sold upon the premises, and no gambling shall be allowed or permitted therein.

(k) No adult entertainer, other employee, patron or other person at an adult entertainment establishment shall be allowed to engage in specified sexual activity as defined herein on the premises of any adult entertainment establishment.

Sec. 78-328. False information in application for license or permit.

Any material omission, untrue or misleading information contained in or left out of an original or renewal application for any license ~~or permit~~ issued pursuant to this division shall be unlawful, shall be cause for a denial thereof, and shall be punishable as a violation of a county ordinance. If any such license or permit has previously been granted under the circumstances described in this section, such shall constitute cause for the revocation, suspension or probation of the license. ~~or permit.~~

Sec. 78-329. Adult entertainment establishment employees.

(a) *Qualifications.* The County Police Department regulatory services and permits unit shall issue an annual work permit to an applicant unless: (1) the applicant is less than eighteen (18) years of age; (2) the applicant has failed to provide information as required by this division for issuance of a work permit or has falsely answered a question or request for information on the application form; (3) the applicant fee for an adult entertainment establishment work permit by this division has not been paid; or (4) the applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined by this division. ~~Employees of an adult entertainment establishment shall be not less than 18 years of age. Every employee must be of good moral character.~~

(b) *Approval for employment.* Before any person may work on a ~~regulated~~ licensed premises, the person shall file an application with the regulatory services and permits unit of the county police department on forms provided by said office. The forms shall be readily available upon request Monday through Friday, except holidays, during the hours of 8 am to 5 pm at the regulatory services and permits unit of the Cobb County Police Department. The police department shall have 20 days to investigate the information required of the employee and render a decision. If the applicant is deemed ineligible to receive a work permit hereunder based on any of the eligibility requirements contained in this section, the county police department regulatory services and shall issue a written notice of non-clearance to the applicant stating that the person is ineligible for such

work permit and explaining the reasons therefore. ~~If the employee is found to be of good moral character as defined in this article~~ If the applicant is deemed eligible to receive a work permit hereunder based on the eligibility requirements contained in this section, ~~the regulatory services and permits unit of the county police department regulatory services and permits unit shall grant approval of employment work permit.~~ Upon approval, the employee may begin working on the ~~regulated~~ licensed premises. If no decision is made within the 20 day period, the employee shall be deemed to be approved for employment at the licensed premises. ~~If approval is denied or no decision is made within the 20 day period,~~ the prospective employee may within ten days of notice of said denial, ~~or the expiration of 20 days without a decision~~ apply to the board of commissioners for a hearing. The board of commissioners shall consider the appeal at its next regular scheduled day meeting, or within 20 days at a specially called meeting, whichever time period is shorter, at which time the board of commissioners shall make a decision on the appeal to grant or deny the permit. The decision of the board of commissioners after hearing may be appealed within 30 days to Cobb Superior Court by writ of certiorari. An investigation fee as set forth in schedule F of the schedule of fees as adopted by the board of commissioners shall accompany the application of intended employment, or a receipt of the permitting officer evidencing the payment of such fee at the time the application is filed. The failure of the board of commissioners to make a decision immediately after its meeting shall be deemed an approval of the work permit employment request.

(c) *Suspension or revocation of permit.* The conviction of or pleading guilty or nolo contendere to a specified criminal activity, as defined in this division ~~The arrest or conviction of a drug, alcohol, or sex-related crime, or a crime involving moral turpitude~~ subsequent to the issuance of the permit may subject an employee to suspension or revocation of the employee's permit. The board of commissioners shall consider the matter concerning the possible suspension or revocation of the permit. The decision of the board of commissioners after hearing may be appealed within 30 days to Cobb Superior Court.

(d) *[Hearing.]* No permit issued under this ~~article~~ division shall be suspended, revoked or placed on probation except for due cause as defined in this section, and after a hearing before the board of commissioners following written notice to the holder of such permit of the time, place and purpose of such hearing, addressed to the holder of the permit at the last address which the holder of the permit provided to the county, and a statement of the charge or charges upon which such hearing shall be held. Three days' notice shall be deemed reasonable. ~~, but shorter or longer periods of notice shall be authorized as the circumstances may justify.~~

(e) *[Due cause.]* Due cause for suspension, revocation or probation of such permit shall consist of the conviction or pleading guilty or nolo contendere to a specified criminal activity, as defined in this division. ~~arrest or conviction of a drug, alcohol or sex-related crime, or a crime involving moral turpitude.~~

(f) *[Hearing procedures.]* Strict adherence to the rules of evidence are not required in hearings pursuant to this section as the hearings constitute quasi judicial proceedings; the goal of this proceeding shall be a fair hearing and the procedures hereinafter set forth shall be followed:

(1) The county attorney or his or her designee shall read or cause to be read the charges and specifications against the holder of the permit. The county attorney or his or her designee shall then read or cause to be read any response filed by the holder of the permit.

(2) The board of commissioners shall hear the evidence upon the charges and specifications as filed against the holder of the permit.

(3) The order of proof shall be as follows: The county representative may make an opening statement and present evidence in support of the charges; the holder of the permit may make an opening statement and then present evidence. Evidence of each party may be supported by submission of documents. Each party shall be allowed to present rebuttal evidence and closing argument.

(4) The holder of the permit and the county may be represented by counsel, and may present, examine and cross examine witnesses. Additionally, the board of commissioners may examine all parties and witnesses.

(g) *[Board of commissioners ruling.]* Following the presentation of evidence and argument, the board of commissioners may suspend, revoke or place on probation the permit of the holder of the permit.

(h) *Independent contractors.* For the purpose of this ~~article~~ division, independent contractors shall be considered as employees and shall be required to have permits as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

(i) Any annual work permit issued hereunder shall expire 12 months after the date of issue shown on the work permit. The person issued an adult establishment work permit shall make application for renewal at least 30 days prior to the expiration of the work permit in order to continue working at the adult entertainment establishment after the expiration of the 12-month issue period, provided that all eligibility requirements herein continue to be met.

~~Sec. 78-330.—Erotic dance and entertainment establishments.~~ Adult dancing establishments and Erotic entertainment dance establishments.

The following provisions, in addition to all others, shall apply to ~~erotic dance and adult entertainment dancing~~ establishments and to erotic entertainment dance establishments:

(1) No later than March 1 of each year, the existing licensee shall file a verified report with the supervisor showing the licensee's gross receipts and all amounts paid to dancers or adult entertainers for the preceding 12-month period.

(2) The licensee shall maintain and retain for a period of two years the names, addresses and ages of all persons employed as dancers or adult entertainers.

- (3) All dancers and adult entertainers, dancing and entertainment shall occur on a platform intended for that purpose which is raised at least two feet from the next-highest level of the remainder of the floor.
- (4) No adult entertainment ~~dancing or entertainers~~ shall occur closer than ten feet to any patron.
- (5) No dancer or adult entertainer shall ~~fondle or caress~~ touch any patron, and no patron shall ~~fondle or caress~~ touch any dancer or adult entertainer.
- (6) No patron shall directly pay or give any gratuity to any dancer or adult entertainer.
- (7) No dancer or adult entertainer shall solicit any pay or gratuity from any patron.
- (8) It shall be unlawful for any dancer or adult entertainer to engage in adult entertainment or to expose any specified anatomical areas in the presence of any patron in any separate area including, but not limited to, any room or booth, within an adult dancing establishment or erotic entertainment dance establishment to which entry or access is blocked or obscured by any door, curtain, or other barrier separating entry to such area from any other area of the establishment. All areas of the licensed establishment shall be fully lighted at all times when patrons are present, which shall mean illumination equal to 3.5 foot candles per square foot.

Sec. 78-331. Regulations pertaining to exhibition of sexually explicit films or videos.

(a) A person who operates or causes to be operated an adult entertainment establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(1) Each application for an adult entertainment establishment license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The county may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and

certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5.0 footcandles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

a. That the occupancy of viewing rooms less than 150 square feet is limited to one person.

b. That sexual activity on the premises is prohibited.

c. That the making of openings between viewing rooms is prohibited.

d. That violators will be required to leave the premises.

e. That violations of these regulations are unlawful.

(6) It shall be the duty of the operator to enforce the regulations articulated in subsections (5)a through (5)d of this section.

(7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection (a)(7) remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

~~—Permitted zoning districts.~~



~~No adult entertainment establishment shall be located, and no adult entertainment business may be conducted, on any premises, and no license for an adult entertainment establishment may be issued, for any premises or location unless the location has been zoned GC and located within a Regional Activity Center (RAC) under the zoning laws of the county and complies with all zoning regulations.~~

Sec. 78-332. Design and maintenance of premises.

(a) No adult entertainment establishment shall be conducted, operated or licensed if the adult entertainment activity on the premises is visible from the exterior of the premises.

(b) No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except for separate ~~officers~~ offices, kitchens, restrooms or other areas not frequented by patrons.

(c) All premises shall be kept clean and in proper sanitary condition. Premises shall be cleaned at least once daily ~~and more frequently when necessary~~. This activity shall be supervised by the person in charge of the premises. There shall be provided adequate facilities, equipment and supplies on the premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or more frequently if necessary to prevent accumulation. The licensee or his designee shall make sanitary inspections of the premises at least every 15 days and shall record ~~his~~ the findings on forms supplied by the business license division of the county. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

(d) No premises for an adult entertainment establishment shall have any interior connections or doors with any other place of business or with any place where gambling or ~~other~~ illegal activity is conducted or with any place or premise that has an alcohol license from the State and/or the County. ~~or where persons congregate for the illegal consumption, sale, possession, barter, manufacture, exchange, purchase, dispensation, delivery or other dealing in of alcoholic beverages or for any immoral purposes.~~

Sec. 78-333. Lighting.

All premises licensed under this division shall be fully lighted both inside and outside, except during hours when the establishment is not open for business. Unless otherwise regulated elsewhere in this ordinance, ~~Interior~~ interior lighting shall be at least 3.5 footcandles per square foot.

Sec. 78-334. Severability and conflict.

~~(a) Should any section or provision of this division be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this division as a whole nor any part hereof other than the part so declared to be invalid or unconstitutional. This division and each section and provision of said division hereunder, are hereby declared to be independent sections and provisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any sections or provisions of said division, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so know to be invalid. Should any procedural aspect of this division be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this division.~~

(b) Should any section or provision of this division be in conflict with any other ordinance, rule, regulation or law, then the more restrictive ordinance, rule, regulation, provision, requirement or law shall prevail.

Sec. 78-335 Loitering, exterior lighting, visibility, and monitoring requirements.

(a) It shall be the duty of the operator of an adult entertainment establishment to:

(1) Post conspicuous signs stating that no loitering is permitted on such property;

(2) Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every 90 minutes or inspecting such property by use of video cameras and monitors; and

(3) Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering.

(b) If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(c) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(d) No adult entertainment establishment shall erect a fence, wall, or other barrier that prevents any portion of the parking lot for the establishment from being visible from a public right-of-way.

Secs. ~~78-335—78-336~~ - 78-350. Reserved.

Subdivision II. License

Sec. 78-351. Required.

It shall be unlawful for any person to engage in, operate, conduct or carry on, in or upon any premises, an adult entertainment establishment without first having complied with the provisions of this division, or without a currently valid county license for the operation of an adult entertainment establishment. No license issued under this division shall condone or make legal any activity thereunder if the activity is deemed illegal or unlawful under the laws of the state or the United States or under any other ordinance, rule or regulation of the county. (Ord. of 10-25-94; Code 1977, § 3-7-164.2)

Sec. 78-352. Licensing generally.

- (a) All ~~businesses licensed under this division~~ adult entertainment establishments shall be required to be conducted subject to all the terms and conditions imposed by this division and related laws, applicable provisions of this Code and other ordinances and resolutions of the county relating to such business.
- (b) Each application for a ~~business~~ license for an adult entertainment establishment shall contain the following information:
- (1) The applicant's full true name.
  - (2) The present address and telephone number of the applicant.
  - (3) Reasonable written proof that the applicant is at least 18 years of age.
  - (4) Business, occupation or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, directors and officers of a corporation.
  - (5) The adult entertainment establishment business license or occupation tax history of the applicant and whether such applicant, in previous operations in this or any other city, state or territory under license, has had such license or occupation tax certificate for an adult entertainment business revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
  - (6) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors, the name and addresses of each shareholder and the percentage of ownership of each shareholder. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners and the percentage ownership of each partner. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this ~~article~~ division, but only one application fee shall be charged.

(7) ~~If the applicant, any partners or any corporate officers, directors or shareholders, if the applicant is a corporation, is not a person of good moral character, a complete description of any violation which violation disqualifies said person as being of good moral character, the date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed. If the applicant has been convicted of, pled guilty or nolo contendere to a specified criminal activity, as defined in this division, the applicant must provide the date of the conviction or plea agreement and any disposition, including any fine or sentence imposed and whether the terms of the disposition have been fully completed. If the applicant is a partnership or corporation, all partners and any corporate officers and directors shall provide this information.~~

(8) If applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, last annual report, if any.

(9) Address of the premises to be ~~regulated~~ licensed.

(10) Whether the premises are owned or rented and if rented the name and address of the landlord including a copy of the lease.

(11) Each application shall include a blue line copy of a surveyor's plat, 8 1/2 inches by 11 inches in size, with a scale of one inch equals 200 feet, showing the location of the building or proposed building and location of all customer entries in relation and distance to all real property and buildings on such real property which fall within the distance requirements set forth in section 78-353, together with the zoning classifications and present uses of all such real property. Each application at a location which has not previously been occupied for other than residential purposes or on which there is or is to be new construction shall also include a copy of a site plan approved by the community development department. All real property, locations, structures and improvements thereon shall comply with all county building codes, zoning and planning ordinances and requirements, and all other county ordinances. After issuance of any license under this chapter, no change in the location of the building or customer entry locations shall be made which would affect compliance with any distance requirements of this chapter.

(12) Each applicant for a ~~business~~ license for an adult entertainment establishment shall be verified and acknowledged under oath to be true and correct by:

- a. The applicant if the applicant is an individual;
- b. By the manager or general partner if the applicant is a partnership;
- c. By the president of the corporation if the applicant is a corporation;
- d. By the chief administrative official if the applicant is any other organization or association.

(13) All applicants shall furnish all data, information and records pertinent to obtaining an adult entertainment establishment ~~business~~ license which is

~~reasonably requested by the county~~ this ordinance, and failure to furnish such data, information and records shall suspend the application process until the data, information and records are submitted and if not submitted within 30 days from the date of such request the application shall be dismissed with prejudice.

(14) Each application must contain all the data, information and records required by this ordinance in order to be complete in its entirety before being and accepted by the county for filing and processing.

(c) A separate license shall be required for each place of business.

(d) For the purpose of this division, the term "applicant" shall include a person or persons and, in the case of partnership or corporation, all partners, officers, directors, principals and shareholders of the partnership or corporation.

(e) All applicants for a license shall furnish plans and renderings of the proposed premises. ~~Such premises shall be constructed, renovated or built so as to reasonably compatible with the surrounding neighborhood. The applicant shall comply with all zoning, building, health, and similar county codes.~~

~~(f) The application for a license does not authorize the engaging in, operation of, conducting of or carrying on of any adult entertainment establishment, subject to the provisions of section 78-357.~~

Sec. 78-353. Minimum distance from certain uses; ~~submission of site plan.~~

~~(a)~~ No adult entertainment establishment, ~~business or use~~ shall be located within the following distances as defined and measured as stated in this division:

~~(1)~~ (a) Within 500 feet of any residence.

~~(2)~~ (b) Within 1,000 feet of a church, school, governmentally owned or operated building, library, civic center, public park, hospital, community club or prison.

~~(3)~~ (c) Within 1,000 feet of another establishment regulated or defined under this division.

~~(b)~~ Each application for a license under this division for which there is no existing county license then in effect of the type for which application is being made shall include a blue line copy of a surveyor's plat, 8 1/2 inches by 11 inches in size, with a scale of one inch per 200 feet, showing the proposed location and the location of all customer entries in relation and distance, measured as provided in this division, to all real property and buildings on such real property which fall within the distance requirements specified in subsection (a) of this section, together with the zoning classifications and present uses of all such real property and the proposed location.

~~(c)~~ Each application for a location which has not previously been occupied for other than residential purposes or on which there is or is to be new construction shall also include a copy of a site plan.

~~(d)~~ After issuance of any license, no change in the location of the building on the premises or customer entry locations shall be made which would affect compliance with any distance requirements of this division.

Sec. 78-354. Notice of intent to engage in business.

(a) All applicants for licenses under this division shall give notice that application has been filed and of the purpose of making such application by publication of an advertisement once a week for two consecutive weeks prior to the date of consideration of the application by the license review board in the newspaper in which legal advertisements are published.

(b) The first advertisement shall not appear more than 30 days prior to the date of such consideration. The advertisement shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column. The advertisement need not appear on the same day as legal advertisements are regularly published.

(c) The notice shall contain a particular description of the location of the proposed business, the name of the applicant, and, if a partnership, the names of the partners, and, if a corporation, the names of the officers, and the date, time and place of the hearing, and a statement that any objections to the issuance must be made at prior to the time of hearing, and, if made prior to the time of hearing, must be in writing and received by the supervisor on or before the date and time of hearing.

(d) The applicant shall cause to be placed upon the location of the proposed business a sign stating the following: "Cobb County Adult Entertainment License applied for. Any objection to this application must be made at or prior to \_\_\_\_\_ o'clock \_\_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ (address) which is the date and time of hearing. If prior to the hearing, objections must be writing." The signs shall be at least 18 inches by 24 inches in size and shall face toward all public streets, sidewalks or other public property which adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the legal advertisement through the date of the initial consideration by the license review board.

Sec. 78-355. License fee; penalty for late payment.

(a) The annual license fee for adult entertainment establishment licenses shall be set by the board of commissioners from time to time by resolution. Licenses shall be issued for a period of 12 months only and not for any partial year. No license shall be issued or renewed until and unless all fees and penalties due the county are first paid.

(b) In addition to and not in the alternative to any other penalty which may be provided in this chapter, any licensee or other person who fails to pay any fee, tax or other payment due to the county of any kind when due shall pay, in addition to such fee, tax or other charge, a separate penalty equal to ten percent of the required fee, tax or other charge, for each period of 30 days, or portion thereof, following the due date, until paid in full, including penalties.

Sec. 78-356. General disqualifications of applicant.

No license shall be granted under this division where the application or the evidence shows any of the following conditions to exist:

(1) ~~That the applicant is not of good moral character,~~ That the applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined by this division.

~~(2) That the applicant is a ward with a conservator or guardian. or does not have reasonably sufficient mental capacity to conduct the business for which application is made.~~

(2) That the applicant, as a previous holder of a license for an adult entertainment establishment, has violated any law, regulation or ordinance relating to such business within a ten-year period immediately preceding the date of application.

(3) That any applicant, or any corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent, is delinquent in payment of any property tax or other tax or license fee payable to the county or to the state.

(4) If it is determined that the applicant is making application for a license for another person, corporation or partnership who could not otherwise qualify for a license in order to act as a guise, dummy or straw-man for that person, corporation or partnership who otherwise could not qualify for a license.

(5) An applicant is less than 18 years of age.

(6) An applicant has failed to provide information required by this division for issuance of a license or has falsely answered a question or request for information on the application form.

(7) The adult entertainment establishment is not in compliance with the interior configuration requirements of this division or is not in compliance with locational requirements of this division or the location requirements of any other part of this Code or state law.

(8) For the purposes of this section applicant shall include, the person or entity making the application, any partners, corporate officers, directors or shareholders of the applicant or any of their spouses.

Sec. 78-357. Application--Investigation.

(a) The board of commissioners shall have 45 days ~~(unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the county to complete the investigation)~~ from the receipt of a completed application to make a decision in which to grant or deny a ~~business~~ license for an adult entertainment establishment. In the event the board of commissioners has not granted or denied the application within 45 days ~~(unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the county to complete the investigation)~~, the application shall be deemed to be approved and the

license shall issue immediately, provided the license fee has been paid .an  
applicant shall have the right to operate its adult entertainment establishment.  
(b) Any denial of an application for a license by the board of commissioners may  
be appealed to the Cobb County Superior Court within 30 days of the decision to  
deny by writ of certiorari.

Sec. 78-358. Persons to whom license is issued; citizenship requirements.

(a) *Corporation applicants.* Where the applicant for a license under this division is a corporation, any license shall be applied for by and shall be issued to the corporation and either (1) the majority shareholder thereof, or (2) a person employed full-time in a managing capacity by the corporation. Each of such persons must be a U.S. citizen or legal alien for at least one year prior to application.

(b) *Partnership applicants.* Where the applicant is a partnership, any license shall be applied for by and shall be issued to the partnership and either (1) the managing general partner thereof, or (2) a person employed full-time by the partnership in a managing capacity. Each of such persons must be a U.S. citizen or legal alien for at least one year prior to application.

(c) *Sole proprietorship applicants.* Where the applicant is a sole proprietor, any license shall be applied for by and shall be issued to the sole proprietor if he or she is working full-time in a managing capacity on the premises, and, if not, then to the sole proprietor and a person employed full-time by the sole proprietor in a managing capacity. Each of such persons must be a U.S. citizen or legal alien for at least one year prior to application.

(d) *"Managing capacity" defined.* For purposes of this section, the words "managing capacity" shall mean the president or chief executive officer or managing or general partner of a corporation or partnership, or a person who has responsibility for management of the operations at the location to be licensed and who is a full-time employee of the corporation, partnership, proprietor or other ownership entity.

(e) *Information to be provided to county.* The licensee shall notify the county in writing, and shall keep such notification current, of the name, address and telephone number for the licensee and the agent of the licensee at such address and telephone number for the purpose of receiving communications and notices required under this division.

(f) *SAVE verification.* The applicant must execute an affidavit swearing to their United States citizenship, legal permanent residency or legality of their presence under the federal Immigration and Nationality Act.

Sec. 78-359. Reserved.

Sec. 78-360. Transfer; change of partners or shareholders; change in name or location of business.



- (a) No license issued under this division shall be sold, given, transferred or assigned by any licensee, or by operation of law, to any other person. Any such sale, gift, transfer or assignment, or attempted sale, gift, transfer or assignment, shall be deemed to constitute a voluntary surrender of the license and such license shall thereafter be null and void; provided, however, if the licensee is a partnership or corporation, and one or more of the partners or shareholders, as the case may be, should die, one or more of the surviving partners or shareholders who were partners or shareholders at the time of issuance of the license may acquire, by purchase or otherwise, the interest of the deceased partner or shareholder without effecting a surrender or termination of such license, and in such case the licensee shall immediately notify the supervisor. An adult entertainment establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a license under this division is thereafter issued and sold, transferred or assigned.
- (b) No licensee shall change the location of the establishment without obtaining a new license. An application for a license due to a change of location is subject to all requirements of this division.
- (c) The licensee upon change of the name of the establishment must notify the business license office within 30 days prior to the change.
- (d) No licensee shall operate, conduct manage, engage in, or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on ~~his business~~ the adult entertainment establishment license.

Sec. 78-361-362 Reserved.

~~Sec. 78-362. Additional licensing standards.~~

- ~~(a) With respect to the issuance, renewal or retention of licenses issued under this division, or any rights to retain or have approved an application for a license or renewal, the following standards shall be considered in addition to standards stated elsewhere in this division:~~
- ~~(1) Where there is evidence that, even though there is compliance with the minimum distance requirements in this division, the type and number of schools or number of churches or other facilities in the vicinity causes minors to frequent the immediate area.~~
- ~~(2) Where there is evidence that the location or type of structure would create difficulty in police supervision.~~
- ~~(3) Where there is evidence that the proposed area already is reasonably supplied with such licenses.~~
- ~~(4) Where there is evidence that a license for the location would be detrimental to the property values in the area.~~

~~(5) Where there is evidence that the conducting of the business has been in violation of this division or any other provision of this Code as pertains to adult entertainment, creates a disturbance, creates congregation of intoxicated or unruly persons, or congregation of minors, or allows minors to be on the premises, or that illegal activities have occurred on or in connection with the premises or business, or causes the police to answer complaints or make extra surveillance of the premises.~~

~~(b) In addition to the standards set out in subsection (a) of this section, in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:~~

~~(1) If the applicant is a previous holder of any business license under this article or of an alcoholic beverage license, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.~~

~~(2) The location for which the license is sought would have a material detrimental effect on the adjacent and surrounding property values.~~

~~(3) If the applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it reasonably appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.~~

~~(c) A finding that the conditions described in this section exist or a violation of this or other sections of this division shall be grounds for denial of an original or renewal application and shall authorize the board of commissioners to suspend, revoke or place on probation, with or without conditions, the license or holder of an existing license. The board of commissioners may specify conditions of operation, which shall be on file with the business license division. No probation shall extend over a period of more than 12 consecutive calendar months.~~

Sec. 78-363. County officials and employees of the sheriff's department, public safety agency, community development agency prohibited from interest in license.

(a) No elected or full-time appointed official of the county or any employee of the county's sheriff's office, public safety agency or community development agency, or employee of an elected official of the county who receives all or part of his salary from the county, or his spouse or minor children, shall have any whole, partial or beneficial interest, as set forth in section 78-363(b), in any license issued under this division.

(b) As used in this section beneficial interest in a license shall be deemed to exist if the person is the outright owner of the license, a co-owner of the license, a partner in a partnership which owns all or any part of a license, a stockholder in any corporation organized for pecuniary gain which owns all or any part of a license, an owner, lessor, sublessor or stockholder in any corporation organized for pecuniary gain owning or leasing any real estate which is occupied by an

adult entertainment establishment or shares in any of the income or corpus of any trust fund or estate having any interest in an adult entertainment establishment.

Sec. 78-364. Time limit for obtaining license after approval; issuance.

- (a) All adult entertainment establishment licenses must be obtained and fees paid not later than two weeks from the date of the approval of the application; and, if not so obtained, the permit granted shall be void.
- (b) When a license has been approved and the applicant has deposited with the business license office the required fee, the license shall be issued.

Sec. 78-365. Causes for mandatory denial.

- (a) No license shall be issued to an applicant under this division if ~~within 12 months immediately preceding the filing of an application~~ one or more of the following shall have occurred:
  - (1) The same applicant for a license or renewal has been rejected for any location, if such rejection was based upon the applicant's failure to meet the terms of this division applicable to the applicant as opposed to rejection for reasons related to the location itself, provided that the reason or reasons for the applicant's failure to meet the terms of this division still exist(s).
  - (2) When any application for a license to transact business within the control of the police powers is revoked for cause by the board of commissioners within 10 years immediately preceding the filing of the application. ~~The location has been rejected for any applicant.~~
  - (3) ~~The applicant has withdrawn, without permission of the board of commissioners, an application at any time within seven days immediately preceding the time and date set for the hearing before the board of commissioners, unless at least one year shall have expired from such withdrawal.~~
  - (4) ~~When any application for a license to transact any business within the control of the police powers is denied for cause or any license is revoked for cause by the board of commissioners.~~
- (b) ~~The one-year waiting period as set forth in subsection (a)(3) will not apply where the applicant shall apply for a new location which has not been rejected within the preceding 12 months, except if the applicant has had an application for another location rejected within the preceding 12 months because of lack of qualifications of the applicant.~~
- (c) ~~In the event, the application for a business license is denied the applicant shall be notified in writing of such denial within ten days. Any applicant who is denied a business license for an adult entertainment establishment may appeal such denial to the Cobb Superior Court within 30 days of the decision of the board of commissioners by writ of certiorari.~~

Sec. 78-366. Completion of proposed licensed premises.

Where a building where the adult entertainment establishment is to operate is, at the time of the application for such license, not in existence or not yet completed or renovated, a license may be issued for such location provided the plans for the proposed building or renovation show clearly a compliance with all other provisions of this division. No business shall be conducted therein until the premises have been completed in accordance with the plans and is in conformity with all of the other provisions of this division and the other ordinances of the county and laws and regulations of the state or federal government.

Sec. 78-367. Time limit for commencement of business; forfeiture for nonuse.

(a) All holders of licenses under this division must, within three months after the issuance of the license, open for business, unless the time is extended. Failure to open the licensed establishment within the three-month period or extended period shall serve as an automatic forfeiture and cancellation of the license, and no refund of license fees shall be made.

(b) Any holder of a license under this division who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of the three-month period automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity of any further action of the county.

Sec. 78-368. Duration; renewal.

A business license for an adult entertainment establishment may be renewed on a calendar year basis provided that the licensee continues to meet the requirements set out in this ~~article~~ division and as subsequently amended. The renewal fee for the business license for an adult entertainment establishment shall be established by resolution of the board of commissioners. Renewal applications shall be due by November 15 of the year proceeding the license renewal year. In the event, no action is taken on the request for the renewal of said license by January 1 of the renewal year, the licensee shall have the right to continue operation for the renewal year.

Sec. 78-369. Display of license, license number and name of licensee.

(a) Each licensee under this division shall have printed on the front window of the licensed premises the inscription "Cobb County License No. \_\_\_\_\_, \_\_\_\_\_ Licensee," in uniform letters not less than three inches in height.

(b) The license itself shall be conspicuously displayed at all times within the premises.

Sec. 78-370. Reserved.

~~Sec. 78-370. Appeal procedure to the board of commissioners.~~

~~(a) The applicant/licensee shall, within ten days after he has been notified of an adverse determination, other than by the board of commissioners and other than by suspension or revocation, submit a notice of appeal to the board of commissioners.~~

~~(b) The notice of appeal shall be addressed to the board of commissioners and shall specify the subject matter of the appeal, the basis of the appeal, the action requested of the board of commissioners and the name and address of the applicant/licensee.~~

~~(c) The clerk shall place the appeal on the agenda of the next regularly scheduled meeting of the board of commissioners after receipt of the notice of appeal. The board of commissioners shall render a decision within 30 days from the notice of appeal.~~

~~(d) Any decision of the board of commissioners shall be final unless said decision is appealed to the Cobb Superior Court within 30 days of said decision by writ of certiorari.~~

Sec. 78-371. Procedure for suspension, revocation or probation.

(a) No license issued under this ~~article~~ division shall be suspended, revoked or placed on probation except for due cause as defined in this section, and after a hearing before the board of commissioners following written notice to the holder of such license of the time, place and purpose of such hearing, addressed to the licensee at the last address which the licensee provided to the business license division relative to the operation of an adult entertainment establishment or to the address of the premises, and a statement of the charge or charges upon which such hearing shall be held. Three days' notice shall be deemed reasonable; ~~but shorter or longer periods of notice shall be authorized as the circumstances may justify.~~

(b) Due cause for suspension, revocation or probation of such license shall consist of the violation of any local, state or federal laws, regulations or ordinances regulating business, for any reason which would authorize the refusal to issue or renew such license or for the conviction or pleading guilty or nolo contendere to a specified criminal activity, as defined in this division. ~~arrest or conviction of a drug, alcohol or sex-related crime, or a crime involving moral turpitude.~~

(c) Strict adherence to the rules of evidence are not required in hearings pursuant to this section as the hearings constitute quasi judicial proceedings; the goal of this proceeding shall be a fair hearing and the following procedures shall be followed:

- (1) The county attorney or his or her designee shall read or cause to be read the charges and specifications against the licensee. The county attorney or his or her designee shall then read or cause to be read any response filed by the licensee.
- (2) The board of commissioners shall hear the evidence upon the charges and specifications as filed against the licensee.
- (3) The order of proof shall be as follows: The county representative may make an opening statement and present evidence in support of the charges; the licensee may make an opening statement and then present evidence. Evidence of each party may be supported by submission of documents. Each party shall be allowed to present rebuttal evidence and closing argument.
- (4) The licensee and the county may be represented by counsel, and may present, examine and cross examine witnesses. Additionally, the board of commissioners may examine all parties and witnesses.
- (d) Following the presentation of evidence and argument, the board of commissioners may suspend, revoke or place on probation the business license of the adult entertainment establishment.
- (e) Any decision of the board of commissioners shall be final unless said decision is appealed to the Cobb Superior Court within 30 days of said decision by writ of certiorari.

Sec. 78-372. Removal of signs when license suspended or revoked.

When any adult entertainment establishment license is revoked or suspended, all signs indicating that such business is conducted on the premises shall be removed from the premises, both outside and inside, during the period of revocation or suspension.

Sec. 78-373. Scienter required to prove violation or business licensee liability. This division does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this division. Notwithstanding anything to the contrary, for the purposes of this division, an act by a person working on the premises of the adult entertainment establishment that constitutes grounds for suspension or revocation of that person's work permit shall be imputed to the adult entertainment establishment licensee for purposes of finding a violation of this division, or for purposes of license denial, suspension, or revocation, only if an officer, director, general partner, managing member, or operator of the adult entertainment establishment knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Sec. 78-374. Inspection of adult entertainment establishment and on-premises operator.

(a) The county police department shall have the authority to periodically inspect the portions of adult entertainment establishments where patrons are permitted to determine compliance with all provisions of this division, during those times when the adult entertainment establishment is occupied by patrons or is otherwise open to the public.

(b) A licensee shall have at least one designated person to serve as an on-premise operator during operating hours. An on-premise operator shall be principally in charge of the licensed premise and shall be located on the premises during operating hours.

Secs. ~~78-373~~ 78-375--78-390. Reserved.

## **Article VI. Lawyers and Law Firms**

### **Sec. 78-500 Scope and levy.**

(a) It is the intent of Cobb County that the tax imposed in this section is for revenue purposes only. Cobb County expressly acknowledges that it cannot regulate the practice of law, and no portion of this ordinance shall be construed in such a manner as to constitute the regulation of the practice of law. Cobb County further expressly recognizes that the regulation of the practice of law is the exclusive province of the Supreme Court of Georgia and its authorized representatives. Further, it is not the intent of this section to impose any precondition upon the practice of law. In keeping with these principles, and pursuant to O.C.G.A. § 48-13-6 *et seq.*, all persons, including professional corporations, engaged in the practice of law in the unincorporated area of the county are hereby required to pay the amount now or hereafter fixed as the occupation tax thereon.

(b) Persons practicing law in Cobb County but not maintaining an office in the county.

(1) The provisions of this article shall apply to those persons practicing law with no location or office in the county if the person:

a. Has one or more employees or agents who exert substantial efforts within the unincorporated part of the county for the purpose of soliciting business or serving clients; or

b. Owns personal or real property which generates income related to the practice of law and which is located in the unincorporated part of the county.

(2) In no event shall a person practicing law subject to this subsection be required to pay an occupation tax to more than one local government in the state and then only to the local government in which the largest dollar volume of business is done or service is performed by the person.

(3) If a person subject to this subsection provides to the manager of the business license division proof of payment of a local business or occupation tax in another state, or county or municipality of this state which purports to tax the practitioner's services in this state, the practitioner shall be exempt for the levy of any occupational tax under this section.

State law references: General authority to levy occupation tax, O.C.G.A. §§ 48-13-5--48-13-9.

### **Sec. 78-501 Attorneys not required to register.**

(a) Notwithstanding any language to the contrary elsewhere in this chapter, an attorney shall not be required to register with the business license division.



Information reported with any occupation tax payment may be retained by the business license division and used for those purposes allowed by applicable law.

(b) Notwithstanding any language to the contrary elsewhere in this chapter, an attorney shall not be required to obtain, display, or maintain any county issued certificate showing that any payment or information has been submitted to the business license division.

(c) For the purposes of enforcement of the zoning ordinance, attorneys may be asked to submit notarized affidavits or other written information concerning the business or profession carried on at a location and the dates of operation when applying for a certificate of occupancy for new construction or renovation. Such affidavits or documents shall be used for the purposes of determining compliance with the zoning ordinance and shall not prevent the practice of the profession of law at any other location which has a valid certificate of occupancy.

(d) A refusal to submit a notarized affidavit or other written information stating whether a person engages in the practice of law at a particular location or stating the dates of operation at a location shall not be a violation of this article and shall not prevent an attorney from practicing law in the unincorporated portions of the county. The business license division manager may document this refusal. Where an attorney fails or refuses to provide information as to the location where they may be served with notices issued in support of the enforcement of this article, the county shall direct the notices to the address listed with the State Bar of Georgia and shall consider the failure or refusal of the attorney to provide current address information to be consent to this method of service.

#### **Sec. 78-502 Due date for attorney occupation taxes; proration of tax.**

(a) Notwithstanding any language to the contrary, an attorney shall not be required to pay the occupation tax on the income generated from the practice of law prior to or during the calendar year in which it is earned. Rather, the occupation tax for the preceding calendar year shall be due January 1 of the following year and payable without interest accrued until February 1 at which time the tax will be delinquent and accrue interest. The tax may be paid in person at the business license division or by mailing the tax to the business license division. Any tax payment made by mail shall include the name and address of the person or law firm paying the tax and the name of each attorney whose tax is being paid, so that the business license division may process the payment. An attorney who pays the occupation tax on his own behalf shall include the name of the law firm with which he practices, if any. Any tax paid pursuant to the option of subsection 78-503 (1) shall include a written submission containing sufficient information to enable the business license division manager to determine the accuracy of the taxpayer's calculation.

(b) If during any one calendar year, a person practices law in unincorporated Cobb County for less than one year, his occupation tax shall be prorated based

upon the gross receipts he practiced in unincorporated Cobb County during that calendar year.

**Sec. 78-503 Calculation of amount of tax.**

An attorney who practices law in the jurisdiction of the county shall elect as its entire occupation tax one of the following:

- (1) An occupation tax based on gross receipts combined with profitability ratios as set forth in schedule A. Any attorney or law firm, who elects to pay an occupation tax based on gross receipts shall provide to the business license office information concerning the practitioner's gross revenues on forms supplied by the business license division as well as verification as required by the division manager of the business license division of said gross revenues for the purpose of determining the appropriate occupation tax.
- (2) A fee according to schedule H not to exceed \$400.00 per attorney, such tax to be paid at the attorney's office or location; provided, however, that an attorney paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or attorney. The per-attorney fee includes all persons in the firm who qualify as an attorney under the state's regulatory guidelines and framework.

**Sec. 78-504 Collection of unpaid taxes, fees, and penalties.**

Taxes due from attorneys shall not be considered delinquent until February 1 immediately following the January 1 upon which they were due. An attorney who does not pay the tax prior to February 1 shall accrue interest at the rate of one and one-half percent per month or portion thereof.

**Sec. 78-505. Classification of businesses.**

Every business subject to the provisions of this article shall be classified according to the major group classification of the Standard Industrial Classification Manual, as amended, and published under the auspices of the U.S. Office of Management and Budget. Classification of each business subject to this article shall be based upon the principal activity or dominant line of such business, i.e., that series of goods or services which produces the largest proportion of the business's gross revenues from all sources.

(Ord. of 10-25-94; Code 1977, § 3-7-5)

**Sec. 78-506. Basis for fees; schedule of fees.**

(a) Every person subject to this chapter shall pay a fee based on gross receipts of the practice in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United State Internal Revenue Service, or successor agencies of the United States.

(b) Every person practicing law shall be ranked according to the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service, or successor agencies of the United States. After such ranking, classifications which do not overlap shall be established before setting a single rate of taxation for each classification. No rate shall be charged to a classification which includes a business or practitioner with a higher profitability ratio.

(c) The occupation tax shall include an administrative fee of \$55.00, which shall not be subject to proration or refund.

(d) The initial schedule of fees is attached to the ordinance from which this chapter is derived as schedule A, and subsequent fee schedules may be as approved from time to time by the board of commissioners. After January 1, 2010, any action by the board of commissioners which would increase any fee or tax levied or assessed under this chapter shall be done only upon the board of commissioners conducting at least one public hearing.

(e) The schedules of fees shall be as approved and adopted and as may be amended in the future by the board of commissioners.

(f) The schedule of fees, including those that pertain to all articles of this chapter, shall be on file and available in the board of commissioners' office, or the business license office.

State law references: Basis of fees, O.C.G.A. § 48-13-10.

#### **Sec. 78-507. Allocation of gross receipts for practices with locations in more than one jurisdiction.**

(a) In levying occupation tax upon a practitioner with a location or office situated in more than one jurisdiction, including practitioners with one or more locations or offices in Georgia and one or more locations outside the state, the county is required by O.C.G.A. § 48-13-14 to allocate gross receipts in accordance with one of the following methods:

(1) Where the practitioner can reasonably allocate the dollar amount of gross receipts of the practitioner to one or more of the locations or offices on the basis of services provided in that location or office, the county is authorized to tax the gross receipts generated by the location or office within the county; or

(2) Where the practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the practitioner to each location or office.

(b) In no instance shall the sum of the portions of the total gross receipts of a practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the practitioner.

(c) In the event of a dispute between the practitioner and the local government as to the allocation under this Code section, the practitioner shall have the burden of proof as to the reasonableness of this allocation.

(d) Upon request, practitioners which have a location or office situated in the county and another jurisdiction or other jurisdictions shall provide to the county the following:

(1) Financial information necessary to the allocation of the practice; and

(2) Information relating to the allocation of the practitioner's gross receipts by other local governments.

(3) Information regarding the site of any location or office and payment of occupation taxes to other local governments.

(Ord. of 10-25-94; Code 1977, § 3-7-6.1; Ord. of 6-27-95(1); Ord. of 8-10-99)

(e) In levying the occupation tax upon an attorney or law firm with a location or office situated in more than one jurisdiction, including attorneys or law firms with one or more locations or offices in Georgia, such attorney or law firm shall be required to pay the occupation tax for each such location.

State law references: Similar provisions, O.C.G.A. § 48-13-14(a), (c).

### **Sec. 78-508. Filing of return**

After the end of each calendar year and on or before February 1 of the succeeding year, the owner, proprietor, manager or executive officer of the person liable for the occupation tax levied for the preceding calendar year shall file with the division manager of the business license office of the county, on a form furnished by the supervisor of the business license office, a signed return setting forth the actual amount of the gross receipts of such practice during the preceding calendar year. It shall be the duty of the practitioner to obtain, complete, and return all forms necessary to comply with this chapter.

### **Sec. 78-509. Amount of Tax**

(a) Persons practicing law shall elect as their entire occupation tax one of the following:

- (1) An occupation tax based on gross receipts combined with profitability ratios as set forth in schedule A. Any practitioner who elects to pay an occupation tax based on gross receipts shall provide to the business license office information concerning the practitioner's gross revenues on forms supplied by the business license office as well as verification as required by the division manager of the business license division of said gross revenues for the purpose of determining the appropriate occupation tax.
- (2) A fee according to schedule H not to exceed \$400.00 per practitioner who is licensed to practice law, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the practice. The per-practitioner fee includes all persons in the practice who qualify as a practitioner under the state's regulatory guidelines and framework.
- (b) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, the county or other county of the state, or instrumentalities of the United States, the state or the county or other county of the state, shall not be required to obtain a license or pay an occupation tax for that practice.
- (License tax for professionals, O.C.G.A. §§ 48-13-9(c), 48-13-10, 48-13-13(c).

**Sec. 78-510. Fee for lawyers engaged in practice of more than one profession.**

If, in addition to the practice of law, an individual is also engaged in the practice of one or more of the professions enumerated in section 78-38, such individual shall be required to pay a professional occupation tax for each such profession; provided, however, if such individual has elected to be taxed based on schedule H, the tax for the second and any succeeding profession shall be assessed at 50 percent of the tax otherwise due, as computed under schedule H.

State law references: License tax on professions with multiple services, O.C.G.A. §§ 48-13-12, 48-13-13.

**Sec. 78-511. Forms.**

(a) Documents and papers necessary to the implementation and enforcement of this chapter shall be on such forms and in such manner as may be prepared and directed by the division manager of the business license division.

(b) Such forms shall include the SIC (Standard Industrial Classification) of the business, its taxable gross revenues for the preceding 12 calendar months,

the number of employees, and any such other information as may be required by the division manager of the business license division.  
(Ord. of 10-25-94; Code 1977, § 3-7-14)

**Sec. 78-512. Option of the business license division manager to send bills.**

(a) Notwithstanding any language to the contrary elsewhere in this article, the business license division manager may choose to send bills to attorneys who list their address with the State Bar of Georgia as being located unincorporated Cobb County, including those attorneys who list only post office boxes as their addresses.

(b) An attorney who prepares and signs a notarized affidavit that they did not practice law within the jurisdiction of the county during some part of the tax year for which the tax bill was generated may have their bill adjusted for the time period stated in the affidavit when such attorney did not maintain an office within the jurisdiction of the county and/or states such other reasons why the occupation tax should be adjusted. Such adjustment shall not be made for those attorneys who elect to pay the \$400.00 per practitioner fee as set forth in subsection 78-38 (a) (1) unless the affidavit states that the attorney did not practice law in the jurisdiction of the county at any time during the year for which the tax bill was generated. The business license division manager is authorized to inquire whether such affidavit matches the information maintained by the State Bar of Georgia in connection with the directives of State Bar Rule 1-207 and/or to take such other steps as deemed necessary to determine the accuracy of the affidavit. The submission of an affidavit requesting adjustment shall not act to prevent the imposition of interest should the business license division manager deny the request for adjustment.

(c) The option of the business license division manager to send bills shall not relieve attorneys from the obligation to pay any tax due for any calendar year by January 31 of the following year.

(d) The business license division manager may include in any bills, the unpaid tax balance from three other years, including all fees and penalties and the amount of interest, which has accrued on any unpaid tax liability. The failure of the business license division manager to list any unpaid balance on any bill shall not operate to relieve the taxpayer from liability for any balance due.

(e) It shall be a violation of this section for any attorney to willfully and intentionally misrepresent a material fact in an affidavit to avoid the payment of the occupation tax, and the sole enforcement action to be taken is set forth as follows:

(i) When the business license division manager has reason to believe that an attorney has willfully and intentionally misrepresented a material fact in any affidavit submitted to business license division for the purposes of avoiding full payment of the occupation tax, he or she shall consult with

the county attorney to determine whether such conduct should be referred to the State Bar of Georgia for investigation as to whether a violation of the Georgia Rules of Professional Conduct has occurred.

**Sec. 78-513 Tax execution imposed for failure to pay the occupation tax**

An attorney required to pay the occupation tax and who fails to do so in the manner provided by this article, shall be liable to have the tax and interest collected by the issuance of execution by the business license division manager or ex officio deputy pursuant to O.C.G.A. § 48-13-26. Further proceedings concerning the execution procedure employed in the enforcement of this section shall be as provided by state law. Notwithstanding any provision to the contrary, the use of tax executions and the reporting of any alleged mis-representations shall be the sole mechanism for enforcement of the occupation tax levy against attorneys, and neither this article nor any other portion of the ordinances of Cobb County authorize any civil fine or associated contempt charges for failure to comply with this article

**Sec. 82-27. Permit required for relocation--Within county.**

Before any person shall locate or relocate a mobile home within the limits of the county he shall apply for and obtain from the tax commissioner of the county a permit authorizing such location or relocation if such mobile home is to be used as a residence by the owner thereof, as a residence for others, or for any other purpose.

(Res. of 12-27-77, § 2; Ord. of 5-9-78, § 2; Code 1977, § 3-18-26)

**Sec. 82-28. Same--Outside county limits.**

A mobile home used as a residence which is located within the limits of the county may not be relocated within the confines of the county or beyond such confines without first obtaining a permit from the county tax commissioner authorizing such relocation.

(Res. of 12-27-77, § 3; Ord. of 5-9-78, § 3; Code 1977, § 3-18-27)

**Sec. 82-28 (a). Maximum age of unit.**

No manufactured or mobile home may be moved from outside the county and placed on any lot or mobile home park space within the county that was manufactured more than 7 years prior to such move-in. No mobile home greater than 10 years in age shall be moved or relocated within the county.

Sec. 82-39. Penalty for noncompliance.

Any owner or occupant of a mobile home, or property owner or their designated agent having a mobile home located on his property within the confines of the county, who fails to comply with this chapter or any part thereof shall be punished as provided in section 1-10.

(Res. of 12-27-77, § 14; Ord. of 5-9-78, § 14; Code 1977, § 3-18-38)



Sec. 86-8. Obscenity and related offenses.

(a) A person commits the offense of distributing obscene material when the following occurs: ~~He or she, in connection with a commercial transaction or for pecuniary gain,~~ sells, lends, rents, leases, gives, advertises, publishes, exhibits, or otherwise disseminates to any person any obscene material of any description, knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so, provided that the word "knowing," as used in this section, shall be deemed to be either actual or constructive knowledge of the obscene contents of the subject matter; ~~and a~~ A person has constructive knowledge of the obscene contents if he or she has knowledge ~~of or~~ of facts which would put a reasonable and prudent person on notice as to the ~~suspect~~ obscene nature of the material; ~~provided, however, that the character and reputation of the individual charged with an offense under this law, and, if a commercial dissemination of obscene material is involved, The character and reputation of the individual charged with an offense under his law and~~ the character and reputation of the business establishment involved may be placed in evidence by the defendant on the question of intent to violate this law. Undeveloped photographs, molds, printing plates, and the like shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(b) Material is obscene if:

(1) To the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion;

(2) The material taken as a whole lacks serious literary, artistic, political, or scientific value; and

(3) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined in subparagraphs a. through e., of this paragraph:

a. Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;

b. Acts of masturbation;

c. Acts involving excretory functions or lewd exhibition of the genitals;

d. Acts of bestiality or the fondling of sex organs of animals; or

e. Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

(c) Any device designed ~~or marketed~~ as useful primarily for the stimulation of human genital organs is obscene material under this Code section. However, nothing in this subsection shall be construed to include a device primarily intended to prevent pregnancy or the spread of sexually transmitted diseases.

~~(d) Material not otherwise obscene may be obscene under this Code section if the distribution thereof, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of their prurient appeal.~~

(ed) It is an affirmative defense under this Code section that selling, lending, renting, leasing, giving, advertising, publishing, exhibiting, or otherwise disseminating the material was done for bonafide medical, scientific, educational, legislative, judicial, or law enforcement purpose(s). ~~restricted to:~~

~~(1) A person associated with an institution of higher learning, either as a member of the faculty or a matriculated student, teaching or pursuing a course of study related to such material; or~~

~~(2) A person whose receipt of such material was authorized in writing by a licensed medical practitioner or psychiatrist.~~

(Ord. of 6-27-06; Amd. of 9-9-08)

Sec. 106-3. Utility accommodations in rights-of-way.

(a) Adopted. The ~~1988~~ 2009 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and Supporting Documents), promulgated by the State of Georgia Department of Transportation, ~~as may be amended from time to time~~, is adopted by reference and incorporated in this article as if fully set forth herein, subject to all amendments, deletions and modifications contained in this article. A copy of the manual shall be maintained at the offices of the director of transportation or his/her designee and the clerk of the board of commissioners and open for public inspection. The 2009 Utility Accommodation Policy and Standards manual as adopted in this Section 106-3 (a) supersedes and replaces the 1988 Utility Accommodation Policy and Standards manual previously adopted.

(b) Amendments. The ~~1988~~ 2009 Utility Accommodation Policy and Standards manual promulgated by the state department of transportation, ~~as may be amended from time to time~~, adopted in section 106-3(a) is amended in order to equate state definitions and provisions with their appropriate and equivalent county counterparts, such that a policy shall be implemented to reflect the intent and effect of the state right of way policy as it would logically apply to unincorporated county's rights-of-way, and in order to reflect the County's policies and practices, including but not limited to the following:

(1) Definitions and Terms Substitutions.

Attorney General of Georgia: County Attorney

Commissioner: Director, county department of transportation.

Department: County department (of transportation).

District Construction Office: County department of transportation.

District or area engineer: County department of transportation operations division manager or his/her designee.

District Utilities Office: County department of transportation engineering department.

Highway: Any road that is part of the county road system.

State: County.

State bridge and structural design engineer: County D.O.T. operations division manager or his/her designee.

State highway (chief) engineer: County D.O.T. director or his/her designee.

State Law Department: County Attorney's Office

State utilities engineer: County department of transportation operations division manager or his/her designee.

State Utilities Office: County department of transportation.

Telephone booth shall include any booth or structure, to be used by the public at large, which houses a communications link for local or long distance communications, including but not limited to data communication ports,

terminals, kiosks, structures or jacks for connection with local or long distance communications.

Utility (as defined in the state's policy) shall read:

Utility: All privately, publicly or cooperatively owned systems for producing, transmitting or distributing communication, data, information, telecommunication, cable television, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, provider, servicer, or any agent thereof, of any above-described utility or utility facility.

(2) Administration. The director of the county department of transportation shall have the authority to administer the state department of transportation's utility accommodation policy and standards, as amended from time to time by the ~~state or~~ county, on county roads in the unincorporated county or within the county system and in accordance with any procedures the county department of transportation may establish thereunder.

(3) Fees. The board of commissioners shall be authorized to charge fees in accordance with the state department of transportation's utility accommodations policy and standards and any other applicable laws that exist now or may be enacted in the future. Fees shall be determined by the director of the department of transportation and subject to the approval of and publicly disclosed by the board of commissioners. Any fee schedule shall be posted at the offices of the director of transportation or his/her designee and the clerk of the board of commissioners and open for public inspection.

(Ord. of 1-23-01)

(4) The following chapters and sections of the 2009 Utility Accommodation Policy and Standards manual are deleted in their entirety:

- a. Section 2.8.C:
- b. Section 2.8.D:
- c. Section 4.0.C and all references in the Manual to Overhead/Subsurface Utility Engineering (SUE) investigations or procedures:
- d. Section 4.1.A.:
- e. Section 4.1.B:
- f. Section 4.1.C.1:
- g. Section 4.1.C.3:
- h. Section 4.2.A.2. Case VII:
- i. Section 4.2.A.2. Case VIII:
- j. Section 5.8.A:
- k. Chapter 7.

(5) The following sections of the 2009 Utility Accommodation Policy and Standards manual are amended as follows:

a. Section 2.5 G of the manual is amended by revising the second sentence to read as follows: to provide that Private Lines may only cross the right-of-way with the prior consent of the county department of transportation and by conforming to all applicable requirements contained in this Manual.

b. Section 3.5 F of the manual is amended by adding the following sentence to the end of the section "A Utility may be required to post a bond at the discretion of the County department of transportation:

c. Section 4.0.A.3 of the manual is amended by deleting the reference to "GUPS Permit Form DOT 8413A" and substituting therefor "County department of transportation permit".

d. Section 4.1.C.4 of the manual is amended by deleting the paragraphs titled "Escalation Process Step 2" and "Escalation Process Step 3" in their entireties, and amending the remaining portions to read as follows:

"4.1.C.4 **Work Plan Approval** – It is the responsibility of the County department of transportation operations division manager or his/her designee to review all Work Plans submitted by the Utility found within a project's limits. If upon review, the County department of transportation operations division manager or his/her designee determines a Work Plan to be unreasonable based upon the required scope of utility adjustment and/or relocation required to accommodate a project; the County department of transportation operations division manager or his/her designee will initiate the following process to resolve such disputes involving the Work Plan whenever they may occur.

After the County department of transportation operations division manager or his/her designee has reviewed and determined that the submitted Work Plan is unreasonable for the proposed utility work in question, the County department of transportation operations division manager or his/her designee will notify the Utility of such opinion through written correspondence. Such written correspondence shall detail the items in question and request the Utility to justify or revise the Work Plan accordingly. The Utility will respond to this letter within 10 business days. The response shall include justification or proposed revisions to comply with the items

in question identified by the County department of transportation operations division manager or his/her designee. If the Work Plan dispute cannot be resolved through the efforts described above after 20 business days from the date provided in the department of transportation's original written correspondence, said dispute may be escalated by the department of transportation's operations divisions manager or his/her designee or the Utility to the Director of the department of transportation and a designated representative of the Utility who has authority to settle the dispute and who is at a higher level of management than the person with direct responsibility for the management of the project. If the parties are unable to resolve the dispute, either may select relief from such other remedies as may be available at law or in equity.

- e. Section 4.2.B.1 of the manual is amended to read as follows:

"4.2.B.1 **Determination of Eligibility.** Whenever a claim for reimbursement is made by a Utility, a written application for such reimbursement shall be submitted by the Utility to the County department of transportation, along with such supporting documentation for such claim as may be required in the discretion of the department of transportation. Upon review and verification of the information provided by the Utility, the department of transportation shall make a determination of eligibility for reimbursement."

- f. Section 4.2.B.4 of the manual is amended by adding the following language to the end of the paragraph: "For above-ground facilities, other factors may be considered by the County department of transportation in determining the allocation and proration of costs to be reimbursed to the Utility (including, but not limited to, the overhang of utility facilities into existing rights-of way)."

- g. Section 4.2.F.2 of the manual is deleted in its entirety and the following language inserted in lieu thereof:

"After review of such information, the County department of transportation will prepare the agreement and coordinate approval and execution. All agreements shall be in writing and executed by the County department of transportation and the Utility".

- h. Section 4.2.F.3 of the manual is amended to reads as follows:

"4.2.F.3 **Reviews and Approvals.** Agreements will be approved and executed by the Chairman of the Board of Commissioners. The prior concurrence of the Director, County department of transportation and County Attorney may also be required."

- i. Section 4.4.B of the manual is amended by deleting the paragraphs titled "Escalation Process Step 1", "Escalation Process Step 2" and "Escalation Process Step 3" in their entireties, and amending the remaining portions to read as follows:

"4.4.B **Revised Work Plan Approval** – If previously unforeseen utility removal, relocation, or adjustment work is found necessary by the County department of transportation, the Utility or the department's Contractor after the letting of a project, the Utility shall provide a revised work plan within 30 calendar days after becoming aware of such additional work or upon receipt of the Department's written notification advising of such additional work. The incorporation of this revised work plan into the overall project schedule is not intended to correct errors and omissions with the originally approved Work Plan submitted to the department. If such errors or omissions occur, it will be the Utility's responsibility to adhere to the original work plan submitted and approved during the preconstruction phase of the project's development. However, when it is deemed appropriate for a revised Work Plan to be submitted the following procedure shall be followed for its approval:

It is the responsibility of the County department of transportation operations division manager or his/her designee to review all revised Work Plans submitted by the Utility found within a project's limits. If upon review, the County department of transportation operations division manager or his/her designee determines a revised Work Plan to be unreasonable based upon the required scope of utility adjustment and/or relocation required to accommodate a project, the County department of transportation operations division manager or his/her designee will initiate the same process to resolve such disputes as set forth in Section 4.1.C.4."

- j. Section 4.4.C of the manual is amended to read as follows:

"4.4.C. **Procedures for Utility Damages or Delay Costs** – If the Utility fails to provide a Work Plan or fails to complete the removal, relocation, or adjustment of its facilities in accordance

with the Work Plan or Revised Work Plan approved by the County department of transportation, then the Utility may be liable to the department or its Contractor for delay costs and damages incurred by the department or its Contractor which grow out of the failure of the Utility to carry out and complete its work accordingly. However, the following escalation process shall be utilized by the department, its Contractor, and the Utility to resolve such disputes regarding damages or delays prior to such claims being brought before a court of competent jurisdiction."

**"Escalation Process Step 1** – It shall be the Contractor's responsibility to coordinate and track each Utilities progress in relation to the Work Plan or Revised Work Plan previously approved by the County department of transportation operations division manager or his/her designee. Once the Contractor has determined that the Utilities work progress is at least 20% behind the approved Work Plan, the Contractor will notify the Utility and the department of such apparent delay through written correspondence. Such written correspondence shall detail the delay in question and request the Utility to submit a proposal on how the Utility plans to rectify such delay and maintain the project's schedule prescribed by the previously approved Work Plan. The Utility will respond to this letter within 10 business days. The response shall include a proposal to cure the delay identified by the department's Contractor. In some cases, the complexity of the project may require that a utility coordination meeting be held to address the issues identified by the department's Contractor. If the Utility determines that this is the case, then the Utility's response letter shall include a request to hold a utility coordination meeting with the department's Contractor and the County department of transportation for utility delay resolution. If the utility delay dispute cannot be resolved through the coordination efforts described above after 20 business days from the date provided in the Contractor's original written correspondence, said dispute may be escalated for further consideration as provided in Escalation Process Step 2 below."

**"Escalation Process Step 2** – After the County department of transportation operations division manager or his/her designee has reviewed and determined that the submitted Work Plan is unreasonable for the proposed utility work in question, the County department of transportation operations division manager or his/her designee will notify the Utility of such determination through written correspondence. Such written correspondence



shall detail the items in question and request the Utility to justify or revise the Work Plan accordingly. The Utility will respond to this letter within 10 business days. The response shall include justification or proposed revisions to comply with the items in question identified by the County department of transportation operations division manager or his/her designee. If the Work Plan dispute cannot be resolved through the efforts described above after 20 business days from the date provided in the department of transportation's original written correspondence, said dispute may be escalated by the department of transportation operations division manager or his/her designee or the Utility to the Director of the department of transportation and a designated representative of the Utility who has authority to settle the dispute and who is at a higher level of management than the person with direct responsibility for the management of the project. If the parties are unable to resolve the dispute, either party may select relief from such other remedies as may be available at law or in equity. The Utility shall have a period of 45 days from the date of receipt of the department of transportation's original written correspondence to either pay the amount of the damages or delay costs to the department or its Contractor or seek relief from this determination by available legal or equitable remedy".

- k. Section 5.2.F.2.b.1 is amended to read as follows:

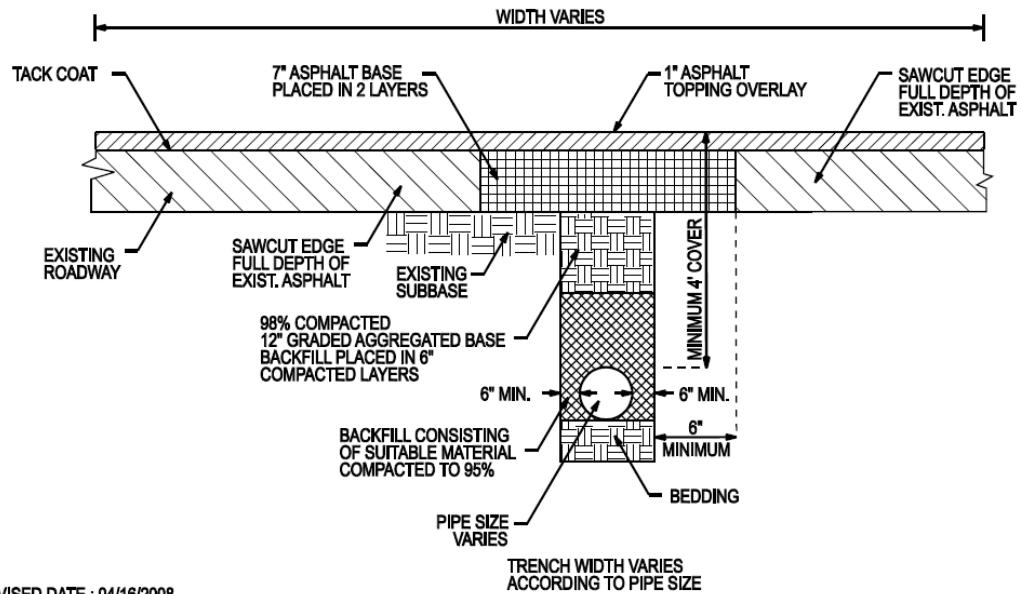
"1. Asphalt Concrete Pavements- a minimum depth of 48 inches from the top of the pipe to the finished asphalt grade shall be required.

The bottom of the trench under the pipe shall be bedded up to the haunches of the pipe. Backfill shall be of a suitable material compacted to 95% compaction. The trench shall have a minimum clearance of 6 inches on either side of the pipe for the maximum amount of compaction effort. A minimum of 12 inches graded aggregated base backfill shall be placed in 6 inch compacted layers at 95% compaction. A 7 inch asphalt base shall be placed in 2 layers with an additional one inch (1") asphalt topping overlay. The existing asphalt will be saw cut along the edge for the full depth of existing asphalt. A tack coat will be required between the asphalt base course and the asphalt topping overlay coat. The asphalt topping shall match the existing roadway asphalt. When the concrete curbing is cut it shall be replaced from construction joint to construction joint (See attached pavement repair diagram)."

- I. Section 5.2F.2.c. of the manual is amended by adding the following language to the end of the paragraph: " Milling and resurfacing may be required by the County department of transportation engineering/utility permitting department".

~~Editor's note: An ordinance of January 23, 2001, amended the Code by repealing former § 106-3, and adding a new § 106-3. Former § 106-3 pertained to pavement cuts and utility work; permission, restoration and obstructions; and derived from a motion of February 8, 1966, No. IX; a motion of September 26, 1967, No. 24; and the Code of 1977, § 3-23-5.~~

~~State law references: Similar provisions, Georgia Constitution, Art. 9, Sec. 2, Para. 3; O.C.G.A. §§ 32-4-42(6), 36-1-20; State Department of Transportation's Utility Accommodations Policy and Standards (1988).~~



### DETAIL FOR TRENCH REPAIR TO INSTALL

**Sec. 110-84. Names**

(c) ~~Except within the same subdivision,~~ No proposed street name shall duplicate an existing street name within the county regardless of the use of the suffix street, avenue, boulevard, drive, place, way, court, or however otherwise designated.

...

(e) New street names shall follow the guidelines established in the Cobb County Addressing Manual.

## Sec. 122-152. Water system.

...

(f) *Use of single master meter for multiple customers.*

~~(1) The owner of buildings containing two or more family dwelling units is prohibited from using a single water meter to service such units unless same is expressly provided by ordinance; no customer may permit water or wastewater service to be taken through his installation (water meter) into any other building or dwelling unit, whether owned by himself or another, or whether on his premises or elsewhere. However, see the exception in section 122-113.~~

~~(2) With written authorization from the department director, the owner of buildings containing two or more family dwelling units or an integrated complex of buildings containing the same may elect to use a single water meter ("master meter") to service such units, and if such election is made, the owner of such buildings will be responsible for payment for all water and wastewater services rendered to such buildings and units by the county as set forth in subsection 122-81(d). Further, the owner shall be responsible for all operation, maintenance, repair, and replacement of water facilities on the user side of the master meter.~~

(1) Buildings containing two or more family dwelling units or an integrated complex of buildings containing the same shall be served by a water master meter, unless otherwise authorized by the water system director or his representative. The owner of such buildings, or a homeowners association provided there are multiple owners, shall be responsible for payment for all water and wastewater services rendered to such buildings and units by the county as set forth in subsection 122-81(d). Further, the owner or homeowners association shall be responsible for the operation, maintenance, repair, and replacement of water facilities on the user side of the master meter. If an exception to this water master meter requirement is authorized, the building shall comply with Sec. 122-113 (b).

~~(3)~~ (2) Installation of a sub-unit water meter for each dwelling unit is required at the time of construction for all new multifamily buildings where a single water meters ("master meters") are is utilized. Purchase and installation of sub unit water meters are the responsibility of the owner. The owner, or a homeowners association provided there are multiple owners, is responsible for any billing of residents based on sub-unit meters and may charge tenants separately for water and wastewater service, provided that the total amount of the charges to the tenants of such a building shall not exceed the total charges paid by the owner or operator for water and wastewater service for such building plus a reasonable fee for establishing, servicing, and billing for water and wastewater service and

provided, further, that the terms of the charges are disclosed to the tenants prior to any contractual agreement.

(3) New single family residential subdivisions constructed with a water master meter shall have an individual meter installed for each residence. The purchase and installation of the individual meters are the responsibility of the developer. The developer or homeowners association shall be solely responsible for the operation, maintenance, repair, and replacement of water facilities on the user side of the master meter. The county shall bill for water and wastewater service based on the master meter readings.

(4) The ~~single~~ water master meter provided in this section shall be installed at or near the customer's property line as the ~~department~~ water system director or his/her representative may designate.

Sec. 134-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building or structure means a building.....

Building means any structure designed or built for the support, enclosure, shelter or protection of persons, animals or property of any kind.

Building height (height of structure or building that is not single family residential) means the vertical distance from the curb level, or its equivalent, to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip or gambrel roof. ~~For the purposes of determining residential building height, the height of the building is measured from the mean elevation of the finished lot grade at the front entrance of the building.~~ For properties within platted subdivisions that have publicly maintained, internal roadways, the front entrance of the building must be oriented to the required setback adjacent to a public roadway.

Building line means the perimeter .....

Park means any lands or facility owned, operated, controlled or managed by any county, city or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

Parking for vehicles means to provide a location for on-site parking of automobiles and trucks ~~and recreational vehicles~~, with a manufacturer's gross vehicle weight of less than 12,500 pounds as shown on the door of said vehicle, or on the tag receipt. This restriction shall not apply to vehicles parked on church property which are operated exclusively for church use, or to recreational vehicles.

Parking space means an area which has for its exclusive purpose the parking of a vehicle. (See section 134-272.).....

Sign. See article VI of this chapter, section 134-311 et seq.

Single Family Residential Building Height means the vertical distance from the lowest point of a building (top of lowest footing and/or bottom of lowest slab on grade) to the highest point of the building (ridge beam) as measured in accordance with the provisions of Chapter 18-27 (e). For properties within platted subdivisions that have publicly maintained, internal roadways, the front entrance of the building must be oriented to the required setback adjacent to a public roadway.

Site (manufactured home only) means the entire tract, subdivision or parcel of land on which the industrialized building or manufactured home is installed.

(Ord. of 12-26-72; Res. of 8-14-73, §§ 7, 8; Ord. of 11-8-77, § 1; Ord. of 1-7-81; Ord. of 8-5-81, § 4; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-2.0;

Ord. of 9-26-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 1-23-01;



Sec. 134-126. Site plan/stipulation amendments.

On any rezoning which is conditioned upon a site plan, proposed minor modifications which do not alter or conflict with the basic intent of the plan may be approved by the zoning division manager after presentation and approval by the board of commissioners at any regularly scheduled meeting or hearing. Also, on any rezoning which is conditioned upon a stipulation or stipulations, proposed minor amendments to the stipulations which do not alter or conflict with the basic intent of the rezoning on which they apply may be recommended (by the Zoning Division Manager and affected District Commissioner) for consideration by the Board of Commissioners ~~approved by the zoning division manager after, first, determination by the board of commissioners that the amendments determining the amendments~~ are minor based on an observation that the characteristics of activities associated with and potential land use impacts of the proposed amendment are consistent with the uses specified in the stipulations as allowable, and will not involve a higher level of activity or density than the uses specified, nor will any access points, buffer widths, architectural styles or other similar protections be altered without an alternate but equal remedy/stipulation. ~~and, second, Further,~~ approval of the amendments by the board of commissioners must occur at any regularly scheduled meeting or hearing, unless site plan adjustments are delegated to a District Commissioner as a stipulation included as part of the official minutes. All other modifications must be advertised and rezoned in accordance with the provisions set forth in this division.

(Ord. of 12-26-72; Ord. of 12-11-90, § 3-28-8.8; Ord. of 1-11-94; Ord. of 9-26-95)

Sec. 134-193. R-80 single-family residential district.

The regulations for the R-80 single-family residential district (80,000-square-foot lot size) are as follows:

- (1) Purpose and intent. The R-80 district is established to.....
- 6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.
- (7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.
- (8) Parking requirements. See section 134-272 for paved parking specifications.....
- (11) Use limitations.
  - a. No sales of goods or products shall be permitted except as accessory to a customary home occupation, land use permit, special land use permit or special exception use.
  - b. No adult entertainment uses are permitted.
  - c. All uses are subject to chapter 110, pertaining to subdivisions.
  - d. No outside storage is permitted, excluding firewood and lawn furnishings.
  - e. Maximum impervious surface shall not exceed 25 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities or access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

Sec. 134-194. RR rural residential district.

The regulations for the RR rural residential district are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~  
(Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. No outside storage is permitted, excluding firewood and lawn furnishings.

b. Maximum impervious surface shall not exceed 25 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. .

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.2; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 5-23-95; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-27-04; Ord. of 7-26-05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-195. R-40 single-family residential district.

The regulations for the R-40 single-family residential district (40,000-square-foot lot size) are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~  
(Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. No sale of goods or products shall be permitted except if accessory to a customary home occupation, land use permit, special land use permit or special exception use.....

e. No outside storage is permitted, excluding firewood and lawn furnishings.

f. Maximum impervious surface shall not exceed 30 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer (after certificates of occupancy are issued): public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences. These uses shall not be allowed if an undisturbed buffer is stipulated by the board of commissioners.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.3; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 3-9-99; Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-27-04; Ord. of 1-25-05; Ord. of 7-26-05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-196. R-30 single-family residential district.

The regulations for the R-30 single-family residential district (30,000-square-foot lot size) are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. No sale of goods or products shall be permitted except if accessory to a customary home occupation, land use permit, special land use permit or special exception use.....

e. No outside storage is permitted, excluding firewood and lawn furnishings.

f. Maximum impervious surface shall not exceed 35 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer (after certificates of occupancy are issued): public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences. These uses shall not be allowed if an undisturbed buffer is stipulated by the board of commissioners. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.4; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96;

Ord. of 6-24-97 (eff. 7-1-97); Ord. of 3-9-99; Ord. of 11-23-99; Ord. of 2-8-00;  
Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-27-04; Ord. of 1-25-05; Ord. of 7-26-  
05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-197. R-20 single-family residential district.

The regulations for the R-20 single-family residential district (20,000-square-foot lot size) are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. No sale of goods or products shall be permitted except if accessory to a customary home occupation, land use permit, special land use permit or special exception use.....

e. No outside storage is permitted, excluding firewood and lawn furnishings.

f. Maximum impervious surface shall not exceed 35 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer (after certificates of occupancy are issued): public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences. These uses shall not be allowed if an undisturbed buffer is stipulated by the board of commissioners. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, § 1; Ord. of 12-11-90, § 3-28-7.5; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of



10-27-92; Ord. of 2-22-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96;  
Ord. of 6-24-97 (eff. 7-1-97); Ord. of 3-9-99; Ord. of 11-23-99; Ord. of 2-8-00;  
Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-27-04; Ord. of 1-25-05; Ord. of 7-26-  
05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-198. R-15 single-family residential district.

The regulations for the R-15 single-family residential district (15,000-square-foot lot size) are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications..... (11) Use limitations.

a. No sale of goods or products shall be permitted except if accessory to a customary home occupation, land use permit, special land use permit or special exception use.....

e. No outside storage is permitted, excluding firewood and lawn furnishings.

f. Maximum impervious surface shall not exceed 35 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer (after certificates of occupancy are issued): public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences. These uses shall not be allowed if an undisturbed buffer is stipulated by the board of commissioners. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.6; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96;

Ord. of 6-24-97 (eff. 7-1-97); Ord. of 3-9-99; Ord. of 11-23-99; Ord. of 2-8-00;  
Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-27-04; Ord. of 1-25-05; Ord. of 7-26-  
05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-199. R-12 single-family residential district.

Commencing April 4, 1996, no new applications for rezoning to the R-12 district will be accepted by the board of commissioners. The regulations for the R-12 single-family attached/detached residential district are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. A site plan shall be submitted to county staff for each lot showing the following:

1. Setbacks and dwelling space distances;.....

i. No outside storage is permitted, excluding firewood and lawn furnishings.

j. Maximum impervious surface shall not exceed 35 percent. . Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.7; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-7-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 9-13-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-26-05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-201. RA-4 single-family attached/detached residential district. Commencing April 4, 1996, no new applications for rezoning to the RA-4 district will be accepted by the board of commissioners. The regulations for the RA-4 single-family attached/detached residential district are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications..... (11) Use limitations.

a. There shall be a maximum of four units per acre.....

i. No outside storage is permitted, excluding firewood and lawn furnishings.

j. Maximum impervious surface shall not exceed 40 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent.

~~k. Pools and outbuildings permitted as accessory structures within the RA-4 zoning district must have a site plan approved by the BOC.~~

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.9; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 9-13-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-26-05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-201.1. PRD planned residential development district.

Commencing April 14, 1999, no new applications for rezoning to the PRD planned residential development district will be accepted by the board of commissioners. The regulations for the PRD planned residential development district are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. No floodplains or wetlands may be used in calculating the overall density of a planned residential development. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(10) Use limitations.

a. A PRD district shall be located within any residential category as defined by the Cobb County Comprehensive Land Use Plan: A Policy Guide, so long as it meets the standards set forth in this section and is compatible with surrounding uses and zoning districts and does exceed the density set forth in the comprehensive plan.....

i. During the construction phase only, a 40-foot undisturbed buffer shall be maintained, except for access points, required detention/retention facilities or utilities.

~~j. Pools and outbuildings permitted as accessory structures within the PRD zoning district must have a site plan approved by the BOC.~~

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.11; Ord. of 8-13-91; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 7-11-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 4-13-99; Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 7-10-01; Ord. of 2-26-08)

Sec. 134-201.2. RA-5 single-family attached/detached residential district.  
The regulations for the RA-5 single-family attached/detached residential district are as follows:.....

(6) Floodplain/wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplain and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. There shall be a maximum of five units per acre; however, the overall density of a development may be reduced due to topography, drainage, deforestation or sediment and erosion concerns.....

i. No outside storage is permitted, excluding firewood and lawn furnishings.

j. Maximum impervious surface shall not exceed 40 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent.

~~k. Pools and outbuildings permitted as accessory structures within the RA-5 zoning district must have a site plan approved by the BOC.~~

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and/or access drives may be allowed through, over or across a landscaped buffer. Any such buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-27-04; Ord. of 7-26-05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 134-202. RA-6 single-family attached/detached residential district. Commencing April 4, 1996, no new applications for rezoning to the RA-6 district will be accepted by the board of commissioners. The regulations for the RA-6 single-family attached/detached residential district are as follows:.....

(6) Floodplain and wetlands preservation requirements. Any development must meet all state and federal requirements relating to floodplains and wetlands. The board of commissioners encourages preservation of wetland areas. Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas. No floodplains and/or wetlands may be used in calculating the overall density of the development.

(7) Building and structure requirements. Maximum building height is ~~35~~ (Using Single Family Residential Building Height definition) - 55 feet.

(8) Parking requirements. See section 134-272 for paved parking specifications.....

(11) Use limitations.

a. There shall be a maximum of six units per acre.....

i. No outside storage is permitted, excluding firewood and lawn furnishings.

j. Maximum impervious surface shall not exceed 45 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent.

~~k. Pools and outbuildings permitted as accessory structures within the RA-6 zoning district must have a site plan approved by the BOC.~~

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities or access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.10; Ord. of 8-19-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 2-22-94; Ord. of 9-13-94; Ord. of 7-11-95; Ord. of 9-26-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-10-01; Ord. of 7-26-05; Ord. of 1-24-06; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 2-26-08)



Sec. 134-204. RM-8 residential multifamily district.

The regulations for the RM-8 residential multifamily district are as follows:.....

(11) Use limitations.

- a. There shall be a maximum of eight units per acre; however, the overall density of a development may be reduced due to topography, drainage, deforestation or sediment and erosion concerns.
- b. Where single-family dwelling units are proposed to be constructed in areas zoned RM-8, the minimum house size shall be 950 square feet and the minimum lot size for individual lots shall be 7,000 square feet. Setbacks applicable to the RA-5 zoning district (for detached residences) set forth in this chapter shall apply. Maximum building height is (Using Single Family Residential Building Height definition) - 55 feet. When townhomes constructed to replace existing/demolished multifamily dwelling units are to be constructed in areas zoned RM-8, the minimum house size shall be 950 square feet and the applicable regulations within this chapter shall apply.
- c. Maximum acreage is 40 acres.....
- i. No outside storage is permitted, excluding firewood and lawn furnishings.
- j. Maximum impervious surface shall not exceed 45 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer: public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, § 1; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.12; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-25-94; Ord. of 7-11-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 1-23-01; Ord. of 7-8-03; Ord. of 7-27-04; Ord. of 7-25-06; Ord. of 2-27-07)

Sec. 134-205. FST fee simple townhouse residential district.

The regulations for the FST fee simple townhouse residential district are as follows:.....

(11) Use limitations.

- a. There shall be a maximum of ten units per acre.....
- h. No outside storage is permitted, excluding firewood and lawn furnishings.
- i. Maximum impervious surface shall not exceed 45 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer: public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, §§ 1, 7; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.13; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 7-11-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 7-8-03; Ord. of 7-27-04; Ord. of 7-26-05; Ord. of 2-27-07)

Sec. 134-206. RM-12 residential multifamily district.

The regulations for the RM-12 residential multifamily district are as follows:.....

(11) Use limitations.

- a. There shall be a maximum of 12 units per acre; however, the overall density of a development may be reduced due to topography, drainage, deforestation or sediment and erosion concerns.
- b. Where single-family dwelling units are proposed to be constructed in areas zoned RM-12, the minimum house size shall be 950 square feet and the minimum lot size for individual lots shall be 7,000 square feet. Setbacks applicable to the RA-5 zoning district (for detached residences) set forth in this chapter shall apply. Maximum building height is (Using Single Family Residential Building Height definition) - 55 feet . When townhomes constructed to replace existing/demolished multifamily dwelling units are to be constructed in areas zoned RM-12, the minimum house size shall be 950 square feet and the applicable regulations within this chapter shall apply.
- c. Maximum acreage is 40 acres.....

- i. No outside storage is permitted, excluding firewood and lawn furnishings.

- j. Maximum impervious surface shall not exceed 45 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent. An undisturbed buffer equal to the required rear yard setback for this zoning district shall be established along the perimeter boundaries during construction until certificates of occupancy for affected lots are obtained. In the event that this undisturbed perimeter buffer conflicts with any required building setbacks, the required building setbacks may be altered by the zoning division manager or his/her designee, so to accommodate the 40-foot undisturbed perimeter buffer. The following uses shall be allowed within the undisturbed perimeter buffer: public and private utilities, detention facilities, access drives, pools, decks, gazebos and fences.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, § 1; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.14; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-27-92; Ord. of 10-25-94; Ord. of 7-11-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 9-12-00; Ord. of 1-23-01; Ord. of 7-8-03; Ord. of 7-27-04; Ord. of 7-26-05; Ord. of 7-25-06; Ord. of 2-27-07)

Sec. 134-207. RM-16 residential multifamily district.

Commencing April 4, 1996, no new applications for rezoning to the RM-16 district will be accepted by the board of commissioners. The regulations for the RM-16 residential multifamily district are as follows:.....

(11) Use limitations.

a. There shall be a maximum of 16 units per acre; however, the overall density of a development may be reduced due to topography, drainage, deforestation or sediment and erosion concerns.

b. Where single-family dwelling units are proposed to be constructed in areas zoned RM-16, the minimum house size shall be 950 square feet, and the minimum lot size for individual lots shall be 7,000 square feet. Setbacks applicable to the RA-5 zoning district (for detached residences) set forth in this chapter shall apply. Maximum building height is (Using Single Family Residential Building Height definition) - 55 feet.

c. Maximum acreage is 40 acres.....

i. No outside storage is permitted, excluding firewood and lawn furnishings.

j. Maximum impervious surface shall not exceed 45 percent. Pervious pavement system and/or greenroofs are considered 60 percent effective impervious and will be calculated as such when determining maximum impervious surface. In no case shall total pavement and roof areas (pervious and impervious) exceed 40 percent.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(Ord. of 12-26-72; Res. of 8-14-73, § 8; Ord. of 11-8-77, § 1; Ord. of 7-7-82, §§ 1, 3; Ord. of 12-11-90, § 3-28-7.15; Ord. of 8-13-91; Ord. of 6-9-92; Ord. of 10-25-94; Ord. of 7-11-95; Ord. of 2-27-96; Ord. of 6-24-97 (eff. 7-1-97); Ord. of 11-23-99; Ord. of 2-8-00; Ord. of 1-23-01; Ord. of 7-8-03; Ord. of 7-26-05)

**Sec. 134-221.2. Redevelopment Overlay District (ROD)**

The regulations for the ROD are as follows:

- (1) Purpose and intent. The ROD is established to provide locations for redevelopment of commercial, office and residential uses which are pedestrian oriented and developed at a community or regional activity center scale and intensity, as identified for each specific site or corridor via the Cobb County Comprehensive Plan, as may be amended from time to time. This is intended to encourage compatible mixed uses within the boundaries of these properties. The district may be overlaid upon the LRO, LRC, NRC, O&I, CRC, RMR, OMR, RHR, OHR, NS, PSC, TS and GC zoning districts within these redevelopment corridors and specific redevelopment sites. The district may also be overlaid upon the RM-12 and RM-16 districts that are adjacent to commercially zoned properties within these redevelopment corridors and specific redevelopment sites and on LI and R-20 zoning districts that fall within a Community Activity Center or Regional Activity Center Future Land Use category within these redevelopment corridors and specific redevelopment sites. The Board of Commissioners has determined that any redevelopment project approved within a ROD shall not establish any type of precedent for land use recommendations or future rezoning proposals outside of the boundaries of the ROD project. Those properties outside of the boundaries of a ROD project must provide uses compatible with other surrounding properties that are outside of the ROD. This ROD may be applied to properties within the corporate limits of Marietta and Smyrna, at the discretion of the respective city councils.

### **Sec. 134-223.1 NCS - neighborhood compatible services**

The regulations for the NCS neighborhood compatible services district are as follows:

- (1) *Purpose and intent.* The NCS district is established to provide locations for a variety of uses including professional offices, financial institutions, convenience shopping facilities, retail, services, business distribution/service facilities, and assembly processes which do not emit noise, vibration, smoke, gas, fumes, odors or radiation and are located entirely within an enclosed building which do not involve manufacturing or fabrication of any product, which are on properties delineated for neighborhood activity center or community activity center as indicated in adopted corridor studies as defined and shown in the Cobb County 2030 Comprehensive Plan: Mapping Cobb's Future.
- (2) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - a. *Clinic.* A medical or dental clinic is an organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall include laboratory facilities in conjunction with normal clinic services.
  - b. *Community fair* means a festival or fair such as the North Georgia State Fair conducted wholly within public areas owned by a local government, provided that any activity is conducted at least 200 feet from any property line. Any event shall not exceed 21 days.
  - c. *Community retail uses* means commonly found low scale and low intensity retail uses that offer basic services and frequently purchased goods to the immediate surrounding residential areas with square footages as defined in the use limitations section (11) of this district, such as the following: auto parts store, antique shop, appliance store (home use), bakery, barbershop or beauty shop, beverage shop, bookstore (but not including adult bookstores), bridal shop, camera shop, china and pottery store, clothing store, dance studio, delicatessen, dog grooming shop, draperies and interior decorating supplies, drugstore, dry goods store, florist, furniture store, gifts and stationery store, hardware store, jewelry store, manicurist shop, meat market or butcher shop, millinery store, mimeograph and letter shop, music store, novelty shop, paint store, pedicurist shop, shoe repair shop, shoe store, sporting goods store, supermarket or grocery, tailor shop, toy store, variety shop or video store.
  - d. *Convenience food store with self-service fuel sales* means any retail establishment offering for sale automotive fuels, prepackaged food products, beverages, household items and other goods commonly

associated with such establishments. There shall be no automotive repairs done on-site.

*e. Group home* means a dwelling shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, who must be a resident of the group home. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the State, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of a dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders pursuant to O.C.G.A. § 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:

1. Having a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. Having a record of having such an impairment; or
3. Being regarded as having such an impairment.

However, the term "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.

*f. Nonautomotive repair uses* means commonly found low intensity repair shops such as jewelry, camera, home appliance, television and videocassette recorder repair shops.

*g. Office service and supply establishments* means wholesale and retail commercial establishments that sell, service and supply small office equipment and supplies, such as stores that offer sales of copiers, facsimile machines, typewriters, ribbons, transcribers, dictation equipment, tape, staplers and other general office equipment.

*h. Professional office* means a structure wherein services are performed involving predominately administrative, professional or clerical operations such as the following: law, doctor, optician, audiologist, accounting, tax preparation, real estate, stockbroker, architect, engineer, manufacturer representative, professional counselor, dentist, investigative services.

photographer, insurance, contractor, land surveyor, telephone sales, political/campaign, veterinarian or travel bureau.

(3) Permitted uses. Permitted uses are as follows:

Animal hospitals.

Assembly halls.

Athletic and health clubs.

Banks and financial institutions with drive-in establishment or automated transfer machines.

Boarding kennels (indoor), provided that no outside runs allowed, approval of county health department required, must not create a nuisance as defined by state law, building to be soundproofed, internal air exchange system required (excluding air conditioning system).

Churches, chapels, temples, synagogues, and other such places of worship.

Clubs or lodges (noncommercial).

Colleges and universities (private), including but not limited to research and training facilities.

Commercial greenhouses and plant nurseries, provided that all goods stored outside shall be stored in a designated area.

Commercial indoor recreation uses.

Commercial produce and agricultural product stands.

Community fairs.

Community retail uses

Contractor (specialized) without heavy equipment.

Convenience food stores with self-service fuel sales, provided that the building shall not exceed 3,000 square feet in gross floor area and that no automotive repairs shall be done on-site.

Cultural facilities.

Eating and drinking establishments, including drive-in fast food restaurants.

Emissions or inspection stations. (No temporary buildings/tents to be utilized after June 30, 1998.)

Executive golf courses (see section 134-270).

Exterminating facilities.

Farmers' markets

Film developing and printing facilities.

Freestanding climate controlled self-service storage facilities. The following minimum standards shall apply to freestanding climate controlled self-service storage facilities:

1. Building height should not exceed those of adjacent buildings, nor impact the view shed of adjacent residential property.
2. F.A.R. should be .75 or as determined appropriate by the Board of Commissioners.
3. All units shall be accessed through a main or central entrance.



4. All windows or similar architectural features must be "one way" and provide for an opaque screen from view outside of the building.
  5. Architectural style/design to be similar or complementary to the predominant architectural design of other commercial uses within the activity center. Said architectural style/design to be approved by the board of commissioners. Any roof mounted utilities or building components must be sufficiently screened from view of adjoining properties and public right-of-way.
  6. There shall be no outside storage allowed nor overnight and/or long-term parking of heavy equipment, commercial equipment or parking of construction or related equipment allowed.
  7. There shall be no storage of recreational vehicles and no dry storage of pleasure boats of any type customarily maintained by private individuals for their personal use.
  8. There shall be no storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals.
  9. No units within the facility shall be used for or considered to be premises for the purpose of assigning a legal address in order to obtain an occupational license or any other government permit or licenses to do business.
  10. There shall be no resident manager or any type of overnight accommodations for such.
  11. Landscape plan to be approved by staff with emphasis on planting within the parking facilities.
  12. One parking space shall be provided per every 80 individual storage units/areas.
  13. Loading area, including adequate turnaround space for a tractor trailer vehicle, must be screened by a permanent architectural or landscape feature or as may be approved by the Board of Commissioners if not located to the side or rear of proposed structure.
  14. Lighting plan to be approved by the board of commissioners.
  15. No units shall be used to manufacture, fabricate or process goods, to service or repair vehicles, boats, small engines or electrical equipment, or to conduct similar repair activities, to conduct garage sales or retail sales of any kind, to rehearse or practice utilizing band instruments, or for conversion to an apartment or dwelling unit, or to conduct any other commercial or industrial activities on the site.
  16. Dumpster areas and detention areas must be sufficiently screened from view of adjoining properties and public right-of-way.
  17. Hours of operation to be established by the Board of Commissioners, considering the operation hours of surrounding businesses.
  18. Special land use permit as provided in section 134-37.
- Full service gasoline stations.
- Funeral homes.

Group homes.  
In-home day care.  
Landscape supply (required fence to screen materials from view of adjacent properties and right-of-way).  
Laundry and dry cleaning pickup establishments.  
Light automotive repair establishments.  
Medical and dental laboratories, provided that no chemicals are manufactured on-site.  
Neighborhood retail uses.  
Nonautomotive repair service establishments.  
Nursery schools and child day care centers.  
Office service and supply establishments.  
Offices not elsewhere classified.  
Other consumer goods and services.  
Other service establishments.  
Parking for vehicles.  
Photography studios.  
Printing, publishing and lithography establishments, provided that no more than 50 percent of the total gross floor area will be used for storage.  
Private parks.  
Professional offices.  
Radio, television and other communication towers and antennas subject to section 134-273.  
Recreation grounds other than tennis courts and golf courses.  
Rest homes, personal care homes and convalescent homes.  
Reupholstery and furniture repair establishments.  
Self-service laundry facilities.  
Studios and supplies, provided that no more than 50 percent of the total gross floor area will be used for storage.  
Temporary uses.  
Tool rental

(4) Lot size and setback requirements. Lot size and setback requirements are as follows:

- a. Minimum lot size: 20,000 square feet.
- b. Maximum Floor Area Ratio: 0.5 office & 0.25 retail
- b. Minimum lot width at front setback line: 60 feet.
- c. Minimum public road frontage: 50 feet.
- d. Maximum height: 50 feet.

#### MINIMUM BUILDING SETBACK REQUIREMENTS FOR NCS DISTRICT

Arterial Front – 50'

Collector Front – 40'

Local Front – 40'

Major Side – 25' or 35'

Minor Side – 15' (residential) or 10' (non-residential)

Rear – 30'

Note: All setbacks shall be measured from future right-of-way.

(5) *Landscape buffer and screening requirements.* Unless otherwise noted within this district's requirements, any property within a NCS district which abuts residentially zoned property shall have a 35-foot landscaped screening buffer adjacent to all residentially zoned property. The buffer shall be subject to approval by county staff. Also, when a railroad right-of-way separates a property within a NCS district and a residentially zoned property a 15-foot landscaped screening buffer shall be installed on the NCS property adjacent to the railroad right-of-way. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

a. *Objectives.* Undisturbed, planted landscape buffers or berms shall be implemented in connection with a permitted project and shall address the following objectives:

1. Screening to enhance aesthetic appeal;
2. Control or direction of vehicular and pedestrian movement;
3. Reduction of glare;
4. Buffering of noise; and
5. Establishment of privacy.

b. *Buffers.* Landscape buffers are subject to review and approval by county staff in accordance with the following standards:

1. Plantings are to be a mix of evergreen trees and shrubs.
2. Species are to be ecologically compatible to the site and appropriate for the design situation.
3. Unless public safety concerns dictate otherwise, a buffer should maximize a visual barrier to a height of six feet within two years of planting.
4. Minimum height of plant materials at installation is five feet for trees and two feet for shrubs.
5. Fencing or walls are to be a minimum of six feet in height as approved by county staff.
6. Trees included in buffer plantings may be counted toward site density calculations as required by chapter 50, article VI, pertaining to tree

preservation and replacement, subject to review and approval of county staff.

7. Buffers shall be regularly maintained by the property owner to ensure that the objectives and standards set out in this subsection are met.

8. When topography and existing conditions allow, the required 35-foot buffer should be an undisturbed buffer.

9. Any appeals from a determination by county staff shall be to the board of zoning appeals.

c. *Berms.* Berms are subject to review and approval by county staff in accordance with the following standards:

1. Berms shall be utilized when consistent with surrounding property features.

2. Berms shall be stabilized.

3. Where possible, berms shall be constructed to be consistent with natural or proposed drainage patterns.

4. Berms shall be regularly maintained by the property owner.

(6) *Floodplain and wetlands preservation requirements.* Any development must also meet state and federal requirements relating to areas subject to the provisions of section 134-283, regarding mountain and river corridor protection act areas, and section 134-284, regarding metropolitan river protection act areas.

(7) *Building and structure requirements.* Maximum building height is 40 feet, with no more than three stories.

(8) *Parking requirements.* See section 134-272 for paved parking specifications.

(9) *Lighting requirements.* Any project permitted within the NCS district which proposes a lighted facility must have a county department of transportation approved lighting plan in accordance with the minimum conditions listed in section 134-269.

(10) *Special exception uses.* There are no special exemptions within the NCS district.

(11) *Use limitations.*

a. Maximum floor area ratio is 0.5 for office and service uses and 0.25 for retail uses.

b. All uses allowed within the NCS districts must be contained completely within an enclosed building. No uses are to be conducted outside, except for those approved below as outdoor display of merchandise.

c. The maximum size for any singular non-retail use/tenant, including other uses structurally connected and/or internally accessed from said non-retail neighborhood compatible service use shall be no more than 50,000 square feet of gross floor area. Additionally, the maximum size for any singular retail use/tenant, including other uses structurally connected and/or internally accessed from said retail neighborhood compatible service use

shall be no more than 35,000 square feet of gross floor area. The following subcriteria shall apply to all neighborhood compatible service uses:

- Long blank walls that discourage pedestrian activity are prohibited along public roadway frontages. Building facades must be broken up with recesses of a minimum of 16 inches or other items of visual interest when adjacent to public roadway frontages.
  - Ground-floor facades must have arches, display windows, awnings, or some other feature to add visual interest to the structure.
  - Pedestrian amenities such as patio seating areas, gazebos, fountains, landscaped courtyards must be provided.
  - Uses must have clearly defined entrances with canopies, porticos or arches and covered walkways.
  - Parking should be designed so that no more than 2/3 of the parking spaces are located between the primary structure and one of the major roadways of the intersection at which the project is located. Where site design does not allow for the above parking space distribution, it shall be the option of the developer to install a minimum 25-foot landscaped buffer along the road frontage and measured from the edge of right-of-way to the back of the curb, inclusive of a three-foot high berm.
  - Any and all activity shall be conducted wholly within an enclosed building that has obtained a certificate of occupancy for non-residential use.
- d. Any emission or automotive inspection station shall be located within a permanent facility. (No temporary buildings/tents are to be utilized after June 30, 1998.)
- e. No uses that emit noxious odors, fumes or sounds are permitted.
- f. No adult entertainment uses are permitted.
- g. Maximum impervious surfaces (80%-RAC, 70%-CAC and NAC) shall be established within activity centers as identified by the Cobb County Comprehensive Plan, as may be amended from time to time.
- h. No loading docks or facilities may be located in the front of any primary structure.

Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

(12) Accessory buildings, structures, uses and decks. Any accessory building or structure in excess of 1,000 square feet of gross space shall be located to the rear of the primary structure and at least 40 feet from any residential property line. Any accessory building or structure which exceeds 1,000 square feet of gross space must have the approval of the zoning division manager or his designee as to the location, architectural design and size prior to commencing construction. The division manager of zoning or his designee shall consider the following criteria for determining the appropriateness of the architectural design and size of the accessory building or structure: compatibility with the surrounding neighborhood, style of exterior (the exterior is to be compatible in style with the primary structure), use of the proposed accessory structure, impact on adjacent properties, and requirements as deemed appropriate by plan review as set forth in this subsection. All accessory buildings, structures and uses in excess of 1,000 gross square feet shall be required to submit for plan review through the community development department or receive approval from the director of the community development department or his designee. Permitted accessory structures and uses are as follows:

- a. Accessory storage buildings, to include parking garages, subject to the following conditions:
  1. Maximum height is two stories, not to exceed 35 feet.
  2. Such structures shall be located on the same lot as and to the rear of the principal building to which they are accessory.
  3. No accessory building shall be constructed upon a lot until construction of the principal building has commenced.
  4. On a corner lot, no accessory building shall be located closer to the side street right-of-way line than the principal building.
  5. When abutting any other nonresidential district, no garage or other accessory building shall be located closer than five feet to a side or rear lot line.
  6. When an accessory building is attached to the principal building by a breezeway, passageway or similar means, it shall comply with the yard requirements of the principal building to which it is accessory.
  7. Where any nonresidential lot adjoins the side or rear of a residential lot, an accessory building shall not be located within any required buffers.
- b. Antennas and satellite dishes, which shall meet the requirements set forth in section 134-274.
- c. Freestanding parking garages, subject to the following conditions:
  1. Maximum height is 50 feet, with no more than four stories.
  2. When abutting any residential property line, freestanding parking garages shall not be located within any required buffers.
  3. When abutting any other nonresidential district, no freestanding garage shall be located closer than five feet to a side or rear lot line.

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- d. Heating and air conditioning units, subject to the following conditions:
    - 1. When abutting any residential property line, heating and air conditioning units shall not be located within any required buffers.
    - 2. When abutting any other nonresidential district, no heating and air conditioning units shall be located closer than five feet to a side or rear lot line.
    - 3. Heating and air conditioning units may be installed on the roof of any structure zoned commercially so long as the heating and air conditioning unit does not exceed the height restrictions stated in this section and the units are placed so as to be hidden from a front or side view.
    - 4. No ground-based heating and air conditioning unit shall exceed 35 feet in height.
  - e. Incidental storage, provided that the material stored is incidental to the permitted use, as determined by the division manager of zoning or his designee, and stored completely within a portion of the enclosed principal structure permitted within the district, or within a permitted accessory structure.

Sec. 134-266. Setbacks for gasoline pumps and canopies.

Within any zoning district which allows for gasoline pumps and canopies (attached or detached) covering the pumps, pumps and canopies shall be set back at least 15 feet from the future right-of-way. Any permanent building, whether or not attached to a canopy, must be located within the required building setbacks. Within any zoning district which allows for freestanding carwashes, canopies that cover any vehicles being washed on site must be located within building setbacks and permitted as a structure (permanent) as defined in this chapter and as distinguished from a temporary canopy or tent and the like. Canopies originally constructed to cover gasoline pumps may be utilized as canopies covering vehicles being washed on site, provided that they shall be set back at least 15 feet from the future right of way.

(Ord. of 12-26-72; Ord. of 12-11-90, § 3-28-11.9)



Sec. 134-278. Erection, installation and use of factory-built buildings and dwelling units and manufactured homes.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context .....

(2) Notification to purchaser. ....

(c) Class II manufactured homes.

(1) Zoning and permits. No manufactured home of this class shall be installed, used, parked or occupied on any site in the county except one zoned MHP or MHPS or on a site for which a land use permit for such use has been obtained from the county (except that such units may be located for sale upon property properly zoned to a commercial classification which allows such activity), unless the following requirements are met:

a. An application shall be filed with the county, through the zoning division, for a permit from the board of commissioners to allow such installation, use and occupancy for single-family purposes on any site zoned for single-family use, and a permit must be obtained prior to transportation to such site. Such application shall be on forms specified by the county and shall include such information as is reasonably necessary for evaluation of the application.

b. The following, as a minimum, shall be filed with the application:

1. A complete set of design plans as approved by SSBCCI, which should also include a drawing depicting each elevation of the exterior appearance of the unit.

2. A plat of the proposed site prepared by a registered surveyor showing at a minimum the exterior boundaries of the site, proposed location of the unit upon the site, and side, front and rear setbacks of the unit as proposed to be located, as measured from the exterior boundaries of the lot.

~~3. A fee in an amount determined by the board of commissioners and on file in the office of the zoning division and with the clerk of the board of commissioners.~~

~~4.~~ 3. A certificate from an inspector selected or approved by the county certifying that the unit was manufactured in accordance with the SSBCCI approved plans and the building codes in effect for the county at the time of filing the application for a permit, for example, building, heating and air conditioning, plumbing, electrical or other codes.

c. The permit required in this subsection shall be in addition to all other permits or requirements of the ordinances, rules and regulations of the county.....

(Ord. of 2-25-86; Ord. of 12-11-90, § 3-28-17.4; Ord. of 2-26-08)

## Sec. 134-285. Landscape Enhancement Strip

In all non residential zoning districts, no vehicular use areas shall be constructed adjacent to a public street, publicly approved street, or publicly maintained street without a landscape enhancement strip. For the purposes of this section, a vehicular use area shall be defined as a parking lot with more than 5 parking spaces, a vehicular drive running parallel to the street or a loading dock area.

The landscape enhancement strip will extend along the entire road frontage except for approved access drives and shall extend from the right-of-way line into the property a distance of eight feet.

The purpose of this strip is to enhance the landscape between the right of way and the vehicular use areas from the public streets. The strip may only include trees required to be planted to meet tree ordinance street yard requirements, evergreen shrubs, grasses, berms and the combination of such, except for the following exemptions:

- Vehicular access drives placed approximately perpendicular to the right of way;
- Foot and bicycle paths;
- Walls and fences less than 6 feet in height;
- Landscaping sculpture, lighting fixtures, trellises and arbors;
- Utility transformers;
- Signage;
- Public utilities, including stormwater detention facilities, provided that they are placed approximately perpendicular to the right of way. After installation, the landscape enhancement strip shall be restored. Where existing lines or planned lines/utilities must run parallel to the right of way, an equivalent amount of landscape enhancement strip may be required beyond the 8 feet. To the extent possible, such lines should be consolidated with vehicular access routes. If stormwater detention facilities must be located within the landscape enhancement strip, an equivalent amount of landscape enhancement strip may be required beyond the 8 feet.

All plantings, berms and walls must meet Georgia and/or Cobb Department of Transportation standards for sight distances, irrigation and right-of-way obstructions. All standards for planting in a public easement apply as well. A corridor through the plantings must be incorporated in the design between a fire hydrant and the building.

The redevelopment of a site utilizing all or parts of an existing building shall not be required to meet the above landscape enhancement strip standards except as follows:

- When the orientation of the building changes to face another street frontage.
- When new loading docks are proposed.
- When new parking or drives are proposed.

Existing vegetation which is preserved may be applied toward meeting the intent of this section with the approval of Community Development Agency landscape plan review staff.

The landscape enhancement plan shall be included with the civil plans submitted for land disturbance permit review. The plan shall include the following:

- The, type, surveyed location, trunk diameter and critical root zone (see Cobb County Development Standards Sec. 416.01) of any existing trees and the type, location and crown diameter of any existing shrubs that are proposed to be preserved.
- The type, location and size of all street yard trees to be planted per Development Standards Sec. 416.02.03.
- The type, location and size of all shrubs, grasses, berms, etc. to be planted.

The owner/developer of the property shall provide performance and/or maintenance surety for materials in this landscape enhancement strip in accordance with tree ordinance requirements (Sec. 50-224). After the prescribed developer maintenance period, it shall be the responsibility of the landowner to maintain and replace as needed all plant materials in the street buffer. The landowner shall also keep the area free of trash and debris. The owner/developer of the property may pursue alternate compliance with this chapter (thru the Cobb County Community Development Agency) by making a donation to Cobb County for the sole purpose of planting landscaping and shrubbery on county property. The amounts shall be equal to the cost of materials only (no labor installation costs shall be required). The fund shall be administered as a part of the Cobb County Tree Replacement Fund, as specified in Section 50-223 of the Cobb County Code.

## ALCOHOLIC BEVERAGE FEE SCHEDULE SCHEDULE F

REGULATORY FEES ARE PER EACH

*ALL FEES ARE REGULATORY THAT DO NOT INCLUDE OCCUPATION TAXES*

|   |                 |                  |
|---|-----------------|------------------|
| ♦ SPIRITOUS LIQUORS – RETAIL PACKAGE<br>\$1,100.00  | FLAT FEE        |                  |
| <u>♦ BOTTLE HOUSE LIQUOR</u>  | <u>FLAT FEE</u> | <u>\$5000.00</u> |
| ♦ SPIRITOUS LIQUORS - POURING   | FLAT FEE        | \$5,000.00       |
| ♦ BEER - POURING  | FLAT FEE        | \$ 550.00        |
| <u>♦ BOTTLE HOUSE BEER</u>  | <u>FLAT FEE</u> | <u>\$550.00</u>  |
| ♦ BEER – PACKAGE  | FLAT FEE        | \$ 550.00        |
| ♦ WINE – PACKAGE  | FLAT FEE        | \$ 550.00        |
| ♦ WINE – POURING  | FLAT FEE        | \$ 550.00        |
| <u>♦ BOTTLE HOUSE WINE</u>  | <u>FLAT FEE</u> | <u>\$550.00</u>  |
| ♦ SUNDAY SALES – POURING ONLY   | FLAT FEE        | \$ 550.00        |
| ♦ FARM WINERY   | FLAT FEE        | \$ 550.00        |
| ♦ BEER PUB  | FLAT FEE        | \$3,300.00       |
| <u>♦ CORKAGE LICENSE IN ADDITION TO</u><br><u>A RESTAURANT WITH ALCOHOL</u><br><u>POURING LICENSE</u> |                 | <u>\$100.00</u>  |
| ♦ MANUFACTURER - BEER   | FLAT FEE        | \$3,300.00       |
| ♦ MANUFACTURER - WINE   | FLAT FEE        | \$ 550.00        |
| ♦ MANUFACTURER - LIQUOR   | FLAT FEE        | \$3,300.00       |

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- |  |           |                             |
|--|-----------|-----------------------------|
| ◆ WHOLESALE – BEER   | FLAT FEE  | \$ 100.00                   |
| ◆ WHOLESALE - SPIRITOUS LIQUORS  | FLAT FEE  | \$ 1,650.00                 |
| ◆ WHOLESALE – WINE   | FLAT FEE  | \$ 100.00                   |
| ◆ WHOLESALE – LIQUOR (LOCATED OUTSIDE OF COUNTY)   |           |                             |
|  |           | \$10,000.00 ( <b>BOND</b> ) |
| ◆ Advertising fee for new businesses with alcoholic beverages  |           |                             |
|  |           | \$ 250.00                   |
| ◆ Advertising fee for change of ownership or licensee for alcoholic  |           |                             |
|  | beverages | \$ 100.00                   |
| ◆ Temporary special event alcoholic beverage license is \$25 per day for each beverage (non-profit only). The application must have prior approval of the License Review Board. Additional application fee of \$250.00 is also required. |           |                             |